

H

LEGAL
LETTERS
From 1863 to 1876

INWARD LEGAL
LETTERS TO
STIPENDIARY
MAGISTRATE

28 October 1863
to 5 April 1878

20

80. 190.

Government House
Falkland Islands
October 28th 1863.

Sir,

I have the honor to
acknowledge the receipt of your
letter of the 26th instant, enclosing
a copy of some new rules for
the Police Court of Stanley, which
you have embodied under the
24th Section of the Administration
of Justice Ordinance No. 10, 1853;
and accompanied by explanations
of the many cogent and excellent
reasons which led you to feel
the necessity of their compilation.

Edward R. Griffiths Esq.
Chairman of the Courts of Justice
80- 80- 80-
Stanley

2.

2. I have to express
my cordial approval of these
Rules, as I am sanguine
of the beneficial results of
their operation. —

I have the honour to be
Sir

Your obedient Servant

J. Mackenzie Gore

Stanley October 5th 1863

Sir,

Referring to the Order of the
Judicial Committee of the Privy Council
on the Appeal "The Falkland Islands
Company agt. The Queen" delivered
to you on the 20th of September last,
I shall be glad to know the amount
of the fees referred to in it, which
I am prepared to pay on the part
of the Company

I am Sir your ob^t servant

Captain Setbald
Clerk of the Court

James Lane
Colonial Manager

No. 207.

Government House
Falkland Islands
December 12th 1863.

Sir,

I am directed by His Grace
the Secretary of State for the
Colonies to forward to you the
enclosed copy of a despatch, on
the subject of proceedings taken
in your Department, prior to
your arrival in the Colony, in
reference to an application for
a Writ against a constable.

Have the honour to be

Sir

Your obedient servant

Edward R. Griffiths Esq^r.

Stipendiary Magistrate

&c.

&c.

&c.

Stanley

J. Mackenzie
Gov^r

3rd September 1863.

Falkland Islands.

N^o 34.

(Downing Street.

8th September - 1863.

Sir,

I have the honor to acknowledge the receipt of Your Despatch N^o 38 of the 29th of April enclosing a Memorial from the Managers of the Falkland Islands Company relative to the refusal by the Acting Chief Magistrate of the Falkland Islands to issue a Writ against a Constable who had arrested one of the Company's Servants.

Governor MacKenzie

Gen

Y^e

Y^e

Y^e

Her Majesty's Government have given this case their careful consideration and are of opinion that the Magistrate in refusing to issue the Writs applied for against the Constable Peck acted under misconception of his duty.

Under the 4th section of the Administration of Justice Ordinance of 1853, the Laws of England generally, (as they were in force on the 1st of January 1850) are to be applied to the Administration of Justice in the Falkland Islands.

Under the 1st section of the same Ordinance the Magistrate's Court has Civil jurisdiction in all

Cases

cases in which the superior Courts of Common Law at Westminster have jurisdiction in England.

Under the 24th section, all the enactments and provisions of the English Common Law Procedure Act of 1852, are extended and applied to the Magistrates' Court, and actions and proceedings therein (so far as consistent with the Ordinance) except (inter alia) "the provisions with respect to the sealing of Writs, and such as relate to the test thereof in the name of a Judge;" and under the 19th section, all writs and process are to be "tested in the name of the Chairman or

(Deputy

"Deputy Chairman of the Court,
"from which the same shall issue,
"and shall in no case require to
"be sealed with any seal."

The effect of these enactments
is that any one alleging himself
to have a cause of action in the
Falkland Islands against any
person, (and an illegal arrest,
or false imprisonment, by a Constable
or other officer of the Law, or special
damage thereby occasioned to the
employer of the person so arrested,
is undoubtedly a good cause of
action) has the same right, in
that Colony, to bring his action
against the person whom he thinks
fit

fit to make Defendant, which he
 would have under the like circum-
 = stances in England. The duty
 of the Chairman or Deputy Chairman
 of the Magistrates' Court, in issuing
 and testing the Writ, is merely
 ministerial, and it must be
 performed in every case, without
 any inquiry whatever into the
 circumstances or merits of the
 case, or into the sufficiency of
 the grounds on which the cause
 of action is alleged to have arisen.
 A Constable is as much liable
 to such an action as any other
 person if, in making an arrest,
 he

he has acted without legal justification, and whether he has done so or not is, in every such case, a mere question of fact to be tried in the action, and not to be made the subject of any preliminary inquiry or exercise of judgment by the Magistrate before testing the Writ. If in the present case, the Constable should be able to show, at the trial, either that the person apprehended by him was "found committing an offence", contrary to the 37th section of the Summary Jurisdiction Ordinance of 1853, or that he was "reasonably suspected

19
"suspected of having committed" any such offence, he will be able to make good his justification, and the verdict and judgment ought to be in his favour. But this is a question which the plaintiff in the action has a right to raise and to have tried by a Jury (under sections 21 to 23 of the Administration of Justice Ordinance) in the ordinary way; and for the Magistrate to intercept such a right of action, by refusing in limine, to issue the Writ, on the ground of some opinion which he may himself have formed of the merits of the particular case, or of some public inconvenience

inconvenience which he may suppose likely to arise if Constables should be held liable to actions of this kind, would be to substitute arbitrary power for Law.

The greatest allowance must no doubt be made in the peculiar circumstances of the Colony for this error of the Magistrate, who had no legal training, and who probably failed to draw the distinction between the issuing and testing of a Writ in a Civil action, and the granting of a summons upon sworn informations in the case of a Criminal charge, in
which

which latter case, the Magistrate would be entitled and bound to exercise his judgment as to the sufficiency of the grounds on which the charge was made, as appearing from the Informations.

It is scarcely necessary to add that there may be cases in which an officer of justice, who has become liable to a civil action in consequence of ^{Acts} ~~a~~ bona fide done by him with a view to the mere Execution of his duty or of the orders of his superiors, ought to be defended, and indemnified at the public expense. But this cannot take away the right of individuals to pursue their legal

legal

14
legal remedies against such an
officer, from any injury which
they may have suffered by reason
of Acts done by him under such
circumstances

You will have the goodness
to acquaint Mr. Lane, in answer
to his Memorial, on this subject
that Her Majesty's Government
are of opinion that Mr. Bailey,
from want of professional knowledge,
fell into an error in refusing the
issue of a Writ against the Constable
who had arrested one of the Company's
servants, and that if Mr. Lane
should still wish to bring the
matter to a trial, it is the wish
of

of Her Majesty's Government that the resident Authorities of the Falkland Islands, both Executive and Judicial, should afford him every facility for the purpose.

You will be good enough to communicate a copy of this Despatch to Mr. Bailey and to Mr. Griffiths, the new Magistrate.

I have the honor to be

Sir,

Your most obedient
humble servant,

Frederic Rogers.

(in the absence of the Duke
of Newcastle.)

3
No. 213.

16
Government House
Falkland Islands
December 16th 1863.

Sir,

I have the honour to
request that you will be good
enough to furnish me with
the record of the Trial held
in the Magistrates Court on
the 19th of November last in
the case of the Crown v. Jean;
and, I am desirous that
you should accompany such
record with a report on the
proceedings, together with

Edward R. Griffiths Esq.
Chairman of the Courts
&c. &c. &c.

14
your opinion regarding the
peculiar verdict of the Jury.

I have the honour to be
Sir

Your obedient servant

J. Mackenzie
Yours

Council Office, Whitehall,

24th January 1864

Sir,

I have the honour to acknowledge
the receipt of the transcript record, in the Appeal of
the Falkland Islands Company vs.
Q. S. L. The Queen
from the Falkland Islands
which has been duly registered in the Books of this Office.

In pursuance of Her Majesty's Order in
Council of the 13th June 1853, this Appeal will be dismissed
at the expiration of three months from this date, unless
effectual steps are taken by the Appellant, within that
time for the prosecution thereof.


I have the honour to be,

Sir,

Your obedient Servant,

Henry Reece
R.S.L.

To the ^{Clerk} ~~Registrar~~ of the
Police Court
Falkland Islands



At the Court at Osborne House Isle of Wight

The 27th day of July 1863

PRESENT

THE QUEEN'S MOST EXCELLENT MAJESTY

LORD PRESIDENT

VISCOUNT PALMERSTON

SIR GEORGE GREY, BART.

WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 24th of June last past in the words following viz :

“ Your Majesty having been pleased by Your General Order in Council of the 1st November 1862 to refer unto this Committee the humble Petition of the Falkland Islands Company setting forth that the Petitioners are a Corporation incorporated by Your Majesty's Royal Charter dated the 23rd December 1851 and hold large tracts of land in the Falkland Islands for the purpose (amongst other things) of breeding and pasturing cattle: that previous to 1851 Mr. Samuel Lafone had obtained from Your Majesty's Government Grants of large tracts of land in the Falkland Islands by which Grants the sole dominion over all wild Cattle which then or thereafter might be upon the said tracts of land or upon any other lands which he might thereafter as therein mentioned possess was granted to him together with the right to hunt and take wild Cattle throughout the whole of the said Islands for a limited period which period was by an Agreement dated 9th January 1850 extended to the 1st day of January 1856: that in 1851 the said Grants and all the benefits arising therefrom were transferred to the Petitioners and in 1852 the right of hunting and taking Cattle throughout the Islands was extended by the Secretary of State for Your Majesty's Colonies to the 1st of January 1860: the Petitioners since 1851 have appointed at great expense a Manager and Agents to manage the said tracts of land and have established farms or stations for the breeding and depasturing of Cattle

and have imported tame Cattle and Sheep to improve the stock: in March 1859 the said Agreement dated the 9th January 1850 was cancelled and a new Agreement was entered into between the Secretary of State for Your Majesty's Colonies and the Petitioners whereby it was agreed that an absolute Grant should be made to the Petitioners of a large district of the said Islands known as the Southern Peninsula and adjacent Islands in pursuance of which by a Grant dated the 8th September 1859 the said district was granted to the Petitioners with 'full and exclusive power to hunt catch kill tame and appropriate all live stock' upon the said district: in addition to the said district so obtained and held by the Petitioners in fee and the said rights respecting the Cattle upon it the Petitioners with the view of improving the breed of Cattle and Sheep obtained Grants from the Governor of the Falkland Islands of several lots of land in the Northern Peninsula consisting of One hundred and sixty acres each together with leases of tracts of Ten thousand acres of the land adjoining such lots respectively: these Grants and Leases were obtained under a Regulation for disposing of Crown lands published by the Governor of the Falkland Islands in 1849. This Regulation is as follows:

‘ A PROCLAMATION.

‘ H. E. the Governor and Commander-in-Chief hereby makes known that the following Regulations will be observed and followed in the sale and license of rural lands in the Falkland Islands:

‘ 1. The purchaser of any quantity of rural land not less than One hundred and sixty acres may obtain a license for depasturing stock on the surrounding Crown lands subject to the following conditions:

‘ 2. The districts in which such lands may be licensed shall be divided into stations having natural boundaries and containing as near as may be the under-mentioned areas.

‘ 3. The area of each station between Six miles and Twenty-four miles from Stanley shall consist of Six thousand acres and on any Crown lands in East Falkland beyond Twenty-four miles from Stanley of Ten thousand acres.

‘ 4. The nearest station shall not be less than Six miles distant from Stanley by land.

‘ 5. The holder of every license shall pay to the Colonial Government for the same a rent of Ten pounds per annum payable in advance.

‘ 6. Every such license will in the first instance be leased for the term of Twenty years at the end of which time it may be renewed by the Governor if he thinks fit and no land included in the license to be sold by Governors during the continuance of the lease.

‘ 7. All applications to rent stations must be made in writing to the Governor and must set forth a general description of the ground wished to be licensed and of the site of the proposed homestead.

‘ 8. Until by the operations of the Survey Department the land shall be divided into stations the boundaries marked out by the individual may be adopted provided they reasonably fulfil the above mentioned conditions of which the Governor will judge.

‘ By command of H. E. the Governor

‘ Government House

T. R. LONGDEN

‘ Stanley Falkland Islands

Chief Clerk.’

‘ 31st July 1849

The said Grants of the said lots respectively purport to grant to the Company the lot or parcel of land therein described to hold the said lot or parcel of land and all and singular other the premises thereby granted with the rights members and appurtenances unto the said Company and their successors for ever at the yearly rent of one peppercorn with a proviso giving general liberty to resume possession of any part of the lands for making roads or public works not exceeding one twentieth part of the whole but not to authorize the resumption of any land on which there shall be buildings or gardens: the Grants also reserve liberty to the Crown to cut timber and search and take stones for keeping public works in repair or making same and also reserve all mines and minerals: with regard to the said tracts of Ten thousand acres respectively certificates were issued to the Petitioners signed by the Governor in the following form:

'No. 9. Whereas the Corporation of the Falkland Islands Company did by their agent James Lane Esquire on the 14th day of February 1860 purchase One hundred and sixty acres of rural land being Lot 2 D on the western shore of Port Salvador north of the Pedro River and have applied for a license to depasture stock on the surrounding Crown lands under the terms of the Proclamation issued by Governor Rennie on the 31st July 1849 I do therefore hereby certify that the following district is leased to the said Corporation for the depasturing stock thereon for the term of twenty years from the date hereof for and in consideration of the annual rent of ten pounds to be paid in advance on the signing of this agreement and on every succeeding 16th of February until the termination of this lease: that is to say all the land bounded as follows on the east by Port Salvador from the mouth of the Pedro River to Muddy Creek on the north by the said Creek and by a line from the head thereof to the Bombilia Hill on the south west by a line from the Bombilia Hill to the summit of Bull Hill and on the south east by a line from thence to Port Salvador at the mouth of the Pedro which last named boundary is the western boundary line of the district No. 10 leased to the Falkland Islands Company also this day as shown in the chart of the district in the office of the Surveyor General: provided always and it is hereby understood that a public roadway is hereby reserved for the use of the public through the said district and that the land hereby leased shall be subject to all the resumptions conditions and reservations applicable thereto as are conveyed in the Crown Grant conveying to the said Corporation the One hundred and sixty acres before named and on the expiry of this lease the said Corporation shall have the right of purchasing without auction any of the land hereby leased not less than Five hundred acres nor more than One thousand acres in extent at the then upset price of country lands provided that the land be selected as nearly as possible of a square figure and in one block in witness whereof I have hereunto set my hand and affixed the seal of the Colony at Government House Stanley Falkland Islands this 16th day of February 1860.'

"By the Summary Jurisdiction Ordinance 1853 of the Falkland Islands section 37 it is provided as follows:

'That if any person until the 1st day of January 1860 without being authorized by the Falkland Islands Company or their agent or after that period without the permission of the Governor in writing shall without lawful cause hunt wound capture or destroy any wild cattle pigs goats or horses in the Falk-

land Islands he shall for each animal so killed wounded captured or destroyed pay a fine not exceeding twenty pounds and any person who shall receive such animal or any part thereof knowing the same to have been so unlawfully captured and destroyed shall pay a fine not exceeding five pounds and any person found committing any offence contrary to this section may be taken into custody without a warrant by the said agent or by any constable and may be detained until he can be brought before a justice to be dealt with according to law and such agent or constable may also stop search and detain any boat in or upon which there shall be reason to suspect that such animal or any part thereof so unlawfully obtained may be found and if upon search thereupon made such animal or any portion thereof shall be found then to convey the same before a justice and to take into custody and carry before a justice any person reasonably suspected of having committed any offence contrary to this section.'

"In November 1860 the Petitioners received in London from the Secretary of State for Your Majesty's Colonies a copy of some recent Rules and Regulations for the killing of cattle in the Falkland Islands whereby amongst other things the Governor was authorized to issue licenses empowering the holder thereof to kill wild cattle paying to the Government a fixed price per head: the Petitioners entertaining some doubt whether these new Rules and Regulations applied to the said lots and tracts of land in the Northern Peninsula so granted and leased to the Petitioners applied to the Secretary of State for Your Majesty's Colonies and upon the 16th May 1861 Mr. Elliot one of the Under Secretaries for Your Majesty's Colonies was deputed by the said Secretary of State to receive a Deputation of the Petitioners' Directors and it was then understood by the Deputation that the said new Rules and Regulations were not intended to apply to such lots and tracts the Petitioners also received a written intimation from Your Majesty's Land and Emigration Commissioners as follows 'The Commissioners understand the intention of the Secretary of State to have been to allow the Company the privilege of hunting and killing wild cattle which might be at any time on their land but not to interfere with the general principle that wild cattle being *feræ naturæ* no property in them can be acquired: in accordance with these authorities the Petitioners instructed their Manager that they were entitled to hunt and take the wild cattle upon the said lots and tracts irrespective of the said new Rules and Regulations and without which it would be impossible to carry on their operations in breeding and depasturing cattle and sheep and on the 1st of February 1862 some hunters were sent upon the Petitioners' farms situate within the said lots and tracts for the purpose of killing the wild cattle thereon: upon this the Governor of the Falkland Islands published a Notice that any person who killed wild cattle without written permission to do so would be fined twenty pounds for each animal half the fine to go to the informer: the Petitioners' Manager Mr. Lane upon seeing this Notice communicated to the Governor the Instructions which he had received from the Petitioners and also stated that all hunting and killing of wild cattle was stopped the Governor however on the 13th February 1862 wrote to Mr. Lane a letter of which the following is a copy:

Government House

13th February 1862

Sir

I beg to acknowledge the receipt of your letter of yesterday stating that the Falkland Islands Company have a right to kill the wild cattle on their leased

“ ‘lands and that the Directors had authorized you to do so. I have forwarded your letter to Mr. Goodlake and have sought his advice as to whether the Company have any such rights and now enclose you a copy of his reply. I have only further to add that the laws of the Colony will in this case as in every other be strictly enforced. (Signed) ‘Thos. C. L. MOORE Governor.’

“The following is a copy of the reply of Mr. Goodlake referred to by the Governor in his said letter :

‘ Court House

‘ February 13th 1862

‘ Sir

‘ I have the honour to acknowledge your letter of yesterday enclosing a letter from Mr. Lane on the rights of the Company to kill wild cattle on their leased lands and requesting me to consult the various documents in the case and give you my opinion : I have had an opportunity of perusing these documents including especially the dispatch of the Duke of Newcastle November 28 1860 on the subject the leases by which the Company hold these stations and the licenses which they have already had to kill such wild cattle as seemed proper to Your Excellency.

‘ With reference to Mr. Lane’s extract from Burns’ ‘Justice’ and his assertions of what the Board have incidentally authorized him to do I can only say for myself that the Ordinance is very clear on the subject and for every case of killing the wild cattle in this illegal manner which is brought before me and proved satisfactorily it will be my duty to inflict a fine of twenty pounds and to enforce it on the goods of the Company represented by Mr. Lane who may act in the manner most likely to be advantageous to his employers.

‘ Should Your Excellency however have received any specific dispatch recommending that the Falkland Islands Company should be allowed to have the right of killing wild cattle of which each hide alone is worth more than twenty five shillings in their six out stations of Ten thousand acres each held at a nominal rental of ten pounds a year and expressly mentioned in their leases as for the purpose of depasturing stock I would beg to move for its production and would suggest that the present Ordinance (37 Summary Jurisdiction) may be altered accordingly.

‘ (Signed) E. W. GOODLAKE

‘ Chairman of Magistrates’ Court.’

“The said Mr. Goodlake was the Chief Magistrate by whom together with other Magistrates any such case would have to be decided.

“ A few days after this communication by the Governor to Mr. Lane the latter was served with three Summonses of which the following are Copies :

‘ To JAMES LANE

‘ of Stanley Falkland Islands

Jose Maria Gonsale
Pedro Varela
Sintoso Merida
George Smith

‘ Whereas Information hath this day been laid before the undersigned one of Her Majesty’s Justices of the Peace For that you as Agent for the Falkland Islands Company did authorize the persons named in the margin (servants of the said Company) since the 7th February 1862 without permission of the Governor in writing and without lawful cause on that part of the Falkland Islands known as Grazing Stations Nos. 9 10 11 12 on the South side of Port Salvador and freehold lands attached to each station to hunt wound capture and

“ ‘destroy divers to wit fifty four wild cattle the property of the Crown contrary to the form of the ordinance in such case made and provided.

‘These are therefore to command you in Her Majesty’s name to be and appear on Wednesday next the 26th February at 10.30 o’clock in the forenoon at the Court House Stanley before such Justices of the Peace for the said Islands as may then be there to answer to the said information and to be further dealt with according to law.

‘Given under my hand and seal this 25th day of February in the year of our Lord 1862 at Stanley in the Islands aforesaid.

‘(Signed) E. W. GOODLAKE J.P.’

“ Another Summons was as follows :

J. M. Gonsales
Pedro Vareta
Tintos Merida
George Smith

‘Whereas Information hath this day been laid before the undersigned one of Her Majesty’s Justices of the Peace for the Falkland Islands For that the persons named in margin servants of the Falkland Islands Company duly authorized by you the Agent for the said Company since the 7th February 1862 without permission of the Governor in writing and without lawful cause on that part of the Falkland Islands known as Grazing Stations Nos. 9 10 11 12 and freehold land attached on the South side of Port Salvador did hunt wound capture and destroy wild cattle the property of the Crown contrary to the form of the Ordinance in such case made and provided.

‘These are therefore to command you in Her Majesty’s name to be and appear on Wednesday next the 26th February at 10.30 o’clock in the forenoon at the Court House Stanley before such Justices of the Peace for the said Islands as may then be there to answer to the said Information and to be further dealt with according to law.

‘Given under my hand and seal this 25th day of February in the year of our Lord 1862 at Stanley in the Islands aforesaid.

‘(Signed) E. W. GOODLAKE J.P.’

“ The third Summons is as follows :

J. M. Gonsales
Pedro Vareta
Tintos Merida
George Smith

‘Whereas information hath this day been laid before the undersigned one of Her Majesty’s Justices of the Peace For that you as Agent for the Falkland Islands Company did authorize the persons named in the margin (servants of the said Company) since the 7th February 1862 without permission of the Governor in writing and without lawful cause on that part of the Falkland Islands known as Grazing Stations Nos. 9 10 11 12 on the South side of Port Salvador and Crown lands adjacent to hunt wound capture and destroy wild cattle the property of the Crown contrary to the form of the Ordinance in such case made and provided.

‘These are therefore to command you in Her Majesty’s name to be and appear on Wednesday next the 26th of February at 10.30 o’clock in the Forenoon at the Court House Stanley before such Justices of the Peace for the said Islands as may then be there to answer to the said Information and to be further dealt with according to law.

‘Given under my hand and seal this 25th day of February in the year of Our Lord 1862 at Stanley in the Islands aforesaid.

‘(Signed) E. W. GOODLAKE J.P.’

"On the 26th February 1862 Mr. Lane attended before the Magistrates Two only were present and one of these was the Chief Magistrate whose opinion had been communicated by the Governor to Mr. Lane. The following is a copy of the Official Record of the Proceedings before the Magistrates :

'POLICE COURT.

Wednesday 26th Febry. 1862.

'Court opened pursuant to adjournment at 10.30 A.M.

'Present E. W. GOODLAKE Esq. J.P.

" R. C. PACKE Esq. J.P.

'REGINA V. FALKLAND ISLANDS COMPANY.

'Mr. Bailey's Information against the Falkland Islands Company read.

'Mr. Lane deposed that as two different summonses had been served upon him one for killing Cattle on the grazing stations of the Company and the other for the same offence and also on the adjoining Crown lands that it would be more convenient to hear the cases separately. Agreed by the Bench to be taken on the grazing stations of the Company.

'Mr. Bailey sworn: I had instructions to examine the country. I found these fifty four hides on the leased lands of the Company at Salvador. If I found any one killing I was to ask for their license. I went towards the second coral. I found fifty two tails hanging up and two more lying on the ground. I left Bonner in charge when I came to the settlement.

'By Mr. Lane: I first went to Salvador on the 15th. Bonner and Pintos accompanied me. I did not go on the 4th to Salvador. I did not go on the Company's land on the 16th. I sent Bonner on the hill on the Sierra Charter to see if there was any one killing about there. I did not send Pintos anywhere. On the 17th we all went out over the hill Sierra Charter. We did not on the 16th 17th and 18th watch for any persons killing Cattle. We travelled all day. Mr. Bailey produces a paper given him by Gonsales who had given him another dirty copy but went into the house and wrote this stating the number of animals he had killed and the days of killing.

'Mr. Lane objects to this being read.

'Mr. Goodlake remarked that it was identical with Mr. Lane's admission in writing to the Governor and that it had not much to do with the real question at issue.

'J. Pintos sworn. Deposes through an interpreter. John Bonner was sworn interpreter. I went to Salvador with Mr. Bailey on the 15th. I found cattle hides west of the Arroyo Mala. I heard Mr. Bailey's conversation with Gonsales. I asked for Mr. Bailey whether Gonsales had finished killing animals. Gonsales answered Yes and told me what number of hides. I saw no Cattle killed while I was there. I do not know where the animals were killed. The Cattle were killed the other side of Rio Pedra.

'By the Bench: I have been on the Island since 1847. I have been all my life acquainted with hides. The animals whose hides I found had not been killed over six days.

'By Mr. Lane: I could not have told this but from what Gonsales told me. Gonsales told him they commenced on the 8th and finished in two days. Does not know whether these animals were killed on the Company's freehold lands or on their leasehold lands and he knows nothing about the Company's land.

'Samuel Bonner sworn: I was sworn in a Constable and accompanied Mr. Bailey into the camp. On the 15th we found a pile of hides. I was left in charge of the hides. I brought them round in the 'Sophy' and lodged them in the smithy. I cannot say whether these fifty four hides were killed since 7th February.

'Mr. Pyne sworn: I am Acting Colonial Secretary and authorized by the Governor to watch this Case.

'Mr. Lane's License to kill cattle expired on 31st December 1861 he paid for it 13th December.

'Mr. Lane asserted the legal right of the Company to kill Cattle on these lands and read from Burns' 'Justice' (see Game vol. iii.) he also read some letters he had received from the Directors of his Company and a letter from Sir W. Ousley to the Secretary for the Colonies. Mr. Goodlake remarked that there was no reason why Mr. Lane should not read those letters if he wished to do so and in his opinion they would certainly hold him (Mr. Lane) clear from any blame at home.

'Mr. Goodlake wished to know however purely for the information of the Court whether Sir W. Ousley had received any answer from his Grace on the subject of the Company's rights to kill wild cattle.

'Mr. Lane said that it was probably in the Vacation but at all events he had had no answer forwarded.

'Mr. Goodlake asked whether it would not have been better as a right was about to be asserted for the first time if Mr. Lane had given some notice to the Governor and proceeded to kill one or two animals to try the question instead of sending out Gonsales secretly to kill wholesale.

'Mr. Lane denies having sent out secretly he had informed members of the Government.

'Mr. Goodlake asked for some definite name.

'Mr. Lane said the Governor himself knew it through Andrez Pentatuga: this was vehemently contradicted by Andrez Pentatuga who was in Court and Mr. Goodlake said that the Notice was put up directly the Governor knew this.

'The Court retired to deliberate having with them the Licenses and Grants by which the Company hold these Grazing Stations.

'Ordered that the Falkland Islands Company pay to the Crown One thousand and eighty pounds according to the Ordinance and Costs Eleven pounds eight shillings and two pence.

'I hereby certify that the foregoing is a true copy of the Records in this Office

(Signed)

' Police Office Stanley

' February 28th 1862

' JOHN SIBBALD

' Clerk of the Court.'

"After these proceedings had taken place Mr. Lane was served with an Order of which the following is a copy:

' Order of Court.

' Falkland Islands } Be it remembered that on the 26th day of February
to wit } 1862 complaint was made before us the undersigned
two of Her Majesty's Justices of the Peace in and for the said Islands that the
servants of the Falkland Islands Company duly authorized by the Manager
since the 7th February 1862 without permission of the Governor in writing and
without lawful cause on that part of the Falkland Islands known as 'Grazing
Stations' Nos. 9 10 11 and 12 situate on the South side of Port Salvador did
hunt wound capture and destroy to wit fifty four wild cattle the property of the
Crown and now this day to wit 26th day of February instant the parties
aforesaid appeared before the said Justices and now having heard the matter of
the said complaint we do adjudge the said Falkland Islands Company to pay
to the Crown the sum of One thousand and eighty pounds sterling on or before
Wednesday next the 5th March proximo at midday and also to pay to the Crown
the sum of Eleven pounds eight shillings and two pence for Costs in this behalf
and if the said sums be not paid into this Court on or before the said 5th March
proximo we hereby order the same to be levied by Distress and Sale of Goods
and Chattels of the said Falkland Islands Company.

' Given under our hands and seal this 26th day of February in the year of
Our Lord 1862 at Stanley Falkland Islands aforesaid

' (Signed) E. W. GOODLAKE J.P.

' R. C. PACKE J.P.'

"The said Stations mentioned in the said Order are a portion of the said Lots
and Districts granted and leased to the Petitioners. The hides of the said Cattle so
killed were taken retained and sold by the Governor although demanded by Mr. Lane
on behalf of the Petitioners. An application was made by Mr. Lane to the Chief
Magistrate for leave to appeal to the Governor in Council which was refused. An
application was also made by Mr. Lane to delay the execution of the Order or to
receive payment by a bill drawn upon the Petitioners in London Mr. Lane at the
same time offering as security the Title Deeds from the Crown but this was also
refused and the whole amount of the Order and Costs was levied by seizure of the
Petitioners' property. The Secretary of State for Your Majesty's Colonies has since
the said Levy remitted to the Petitioners a portion of the said sum viz Eight hundred
and thirty pounds which has been received by the Petitioners without prejudice to
their rights. The distance of the Falkland Islands from this country and the irregu-
larity of communication the fact that negotiations have been pending between the
Petitioners and the Secretary of State for Your Majesty's Colonies with a view to
obtain a remission of the amount so levied have prevented the Petitioners from peti-
tioning Your Majesty in respect of the said Order within a year from the date thereof.
The Petitioners nevertheless humbly submit to Your Majesty that the said Order is
illegal and unfounded and cannot be supported by nor does it profess to be founded
upon any Statute Law or Ordinance nor does as the Petitioners believe any such exist.
The Petitioners also humbly submit to Your Majesty that an important question of
law is involved in the said decision and that should the said Order be suffered to re-
main in force it does away with the rights and privileges which have been graciously
accorded to the Petitioners by Your Majesty and Your Majesty's Representatives and
makes unproductive the expense and labour which has been bestowed by the Peti-

“ tioners upon the establishment and maintenance of the said farms and cattle pastures and upon the improvement of Your Majesty’s Colony : and humbly praying that your Majesty in Council will be graciously pleased to order that the Petitioners shall have special leave to appeal from the said Order of the said Magistrates of the Falkland Islands and that the said Magistrates may be ordered to transmit forthwith the transcript of the said Proceedings and Evidence to the Privy Council Office or that Your Majesty may be graciously pleased to make such further or other Order as to Your Majesty in Council may appear just and proper THE LORDS OF THE COMMITTEE in obedience to Your Majesty’s said General Order of Reference have taken the said humble Petition for leave to appeal into consideration and have heard Counsel on behalf of the Petitioners and have likewise heard Your Majesty’s Attorney-General an appearance having been entered to this Petition on behalf of Your Majesty’s Crown and their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Falkland Islands Company to enter and prosecute their Appeal from the Order of Court of the Magistrates in the Falkland Islands of the 26th February 1861 set forth in the Petition for leave to appeal for the purpose of bringing under the consideration of Your Majesty in Council and of the Lords of this Committee the question whether under the freehold and leasehold Grants or either of them made to the Company as set forth in the said Petition for leave to appeal the Company and their Agents are entitled to kill and destroy wild cattle found on the lands the subject of these Grants.

“ And such leave to appeal is to be granted to the said Falkland Islands Company upon depositing in the Registry of the Privy Council the sum of Three hundred pounds sterling as security for the costs of the Crown in case the said Appeal should be dismissed : and their Lordships do further report to Your Majesty that the Clerk of the Court of Magistrates of the Falkland Islands ought to be directed to transmit to the Registrar of the Privy Council without delay authenticated copies under the seal of the said Court or under the seal of the Governor of the Colony of the Record Pleadings Proceedings and Evidence proper to be laid before Your Majesty on the hearing of this Appeal upon payment by the Appellants of the usual fees for the same.”

HER MAJESTY having taken the said Report into consideration was pleased by and with the advice of Her Privy Council to approve thereof and to order as it is hereby ordered that the said Falkland Islands Company be and the same are hereby allowed to enter and prosecute their Appeal from the said Order of Court of the Magistrates in the Falkland Islands of the 26th February 1861 for the purpose of bringing under the consideration of Her Majesty in Council and of the Lords of the Judicial Committee the question of law set forth in the said Report and such leave to appeal is to be granted upon depositing in the Registry of the Privy Council the usual security for costs to the amount of Three hundred pounds and the Clerk of the Court of the Magistrates of the Falkland Islands is hereby directed to transmit to the Registrar of the Privy Council without delay authenticated copies

under the Seal of the said Court or under the Seal of the Governor of the Colony of the Record Pleadings Proceedings and Evidence proper to be laid before Her Majesty on the hearing of this Appeal upon payment by the Appellants of the usual fees for the same. Whereof the Governor Lieutenant-Governor or Commander-in-Chief of the Falkland Islands for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

Arthur Helps

No. 44.

Government House
Falkland Islands
January 22nd 1864.

Sir,

I have the honour to reply
to your letter of this day's date
on the subject of the prisoner
Mary Flakes, and I fully
concur in your suggestion as
to the propriety of remitting
the unexpired portion of the woman's
sentence: I therefore enclose
an order to the factor to that
effect & I have to request
that you will instruct Constable
Parry to accompany the woman
on board and to report her presence
there to the Master of the vessel.

I have the honour to be
Sir

Your obedient servant

J. Mackenzie

Edward R. Jeffries Esq
Magistrate
82

Stanley

Her Majesty's Ship Stromboli
 Stanley Harbour
 March 27th 1864.

Sir,

I have the honour to request
 that you will direct Lieutenant
 Elliot, Commanding the Detachment
 of Royal Marines, to receive me
 with a guard of honour at four
 o'clock this afternoon at the Government
 House Jetty, as it is my intention
 to land at that hour. -

I have the honour to be
 Sir

Your obedient servant

L. R. Griffiths Esq.
 Stipendiary Magistrate
 Stanley

J. MacKenzie
 Govr.

Stanley May 7 1866

In reference to the application
you in Court on Wednesday
(I again on Monday the 2^d May)
that I might be furnished with
a list of the witnesses taken down
as Chairman of the Court, to
present to His Grace the Duke of
Sutherland, I have to day received a
list in the handwriting of Capt. Pitt-Rivers
the names of the witnesses, but
their evidence -

This is wholly useless, I beg to ask that
a list of all the witnesses as taken down
on the trial may be furnished to me
in duplicate to His Grace, with a Memorial
to the Company - I am willing to pay
all charge with any additional
cost required for expedition
I leave the honor to be, Sir,

Yours very obt. Serv^t

James Lane

Yours
the Capt.

to be

No. 83.

Government House
Falkland Islands
April 5th 1864.

Sir,

I have the honour to refer
to my letters Nos 56, and 57,
dated the 11th of February last,
and as I am most anxious
that the subjects there
alluded to may be laid
before the Legislature of the
Colony with as little delay as
possible, I must ask you
to be good enough to furnish
me with the drafts of Ordinances

E. M. Griffiths Esq.
Stipendiary Magistrate
Esq. Esq. Esq.

required

Stanley.

Required as soon as you
Conveniently can. -

I have the honour to be
Sir

Your obedient servant

J. Mackenzie
Yours

N^o 94.

Government House
Falkland Islands
April 22nd 1864

Sir,

I have duly received a
summons requiring me to
produce, on the part of the
Colonial Government, in
the Police Court, tomorrow,
certain letters therein specified,
and I have the honour to
acquaint you that I have
appointed Mr. Henry Bony,
Government Clerk, to attend
for the purpose and to produce
the necessary documents.

I have the honour to be
Sir

Yours obedient servant
J. R. Griffiths Esq. *Stipendiary Magistrate*
Stanley.
J. Mackenzie Esq.

No. 111.

Government House
Falkland Islands
May 9th 1864.

Sir,

I have the honour to
transmit, enclosed, a
Memorial I have received
from Mr. Lane, the Agent
of the Falkland Islands Company,
which he requests me to
forward to His Grace the
Secretary of State for the
Colonies; and as the
greater portion of his
representations has reference

ward R. Griffiths Esq.
Stipendiary Magistrate
Falkland Islands

to

to the recent Trial in the
Police Court, I should be
glad if you would furnish
me with a report on the
case, together with any
remarks on the subject
which you may deem it
desirable to make.

I have the honour to be
Sir
Your obedient servant

J. J. Mackenzie
Esq.

28
Council Office, Whitehall,
27 July 1864

Sir,

I am directed by the Lord President
of the Council to transmit to you Six Copies
of the Judgment delivered by the Lords of
the Judicial Committee of the Privy Council
on the appeal of the Falkland
Islands Company - vs.

The Queen
from the Falkland Islands
and I am to request that one copy may be
deposited in the Archives of the Court and
the other communicated to the Judges who
decided the cause.

I have the honor to be,

Sir,

Your obedient Servant,

A. Heen
R.P.C.

the Clerk of the
Police Court
Falkland Islands

80.156.

Government House
Falkland Islands
July 24th 1864

Sir,

Information has reached me that a scheme has lately been organized for the purpose of destroying the Penguin Rookeries in the neighbourhood of Volunteer Lagoon, and likewise, that several small boats are at this moment engaged in the indiscriminate slaughter of these animals. —

2. It is well known that the oil procured from the Penguin is of considerable value in the London Markets,

E. R. Griffiths Esq^r.
Stipendiary Magistrate
82 82 82

and

and from this fact I have reason to fear that the destruction of these animals will become more general as a commercial speculation, which catastrophe I am anxious to prohibit as far as possible, both on account of the cruelty exercised in killing them, and because their eggs during the proper season form a wholesome and nutritious article of consumption in the Settlement, and are much prized by the inhabitants.

3. For these reasons it is my intention to propose a Bill to the Legislature of the Colony to protect the Penguins from further molestation, I have therefore the honour
to

to request that you will frame
 the draft of an Ordinance at
 your earliest convenience to
 prohibit their destruction on
 Crown Lands, or on lands
 leased of the Crown. I do not
 think it would be desirable to
 interfere at present with any
 freehold property.

I have the honour to be
 Sir

Your devoted servant

J. J. MacKenzie
 Your

No 154.

Government House
Halkland Islands
July 27th 1864.

Sir,

I have the honour to enclose a copy of a letter I have received from Lieutenant Elliot on the subject of the establishment of a Publichouse contiguous to the Barracks, which he represents as likely to prove prejudicial to the good order and discipline of his men.

2. I should be glad if you would communicate with me on the subject in order that I may have before me all the facts of the case, as I am at present inclined to acquiesce in the views entertained by Mr. Elliot.

I have the honour to be
Sir
Your obedient servant

E. R. Griffiths Esq
Spendary Magistrate
H. R.

J. Mackenzie Esq

The Barracks.

Stanley. July 18th 1864.

Sir,

I have the honor to acquaint your Excellency that within the last few days I have been informed that the Publican who at present keeps the Rose public house is preparing to remove his business to the easternmost cottage in the lower row and consequently in the line of Quarters occupied by the men of the Detachment.

I beg most respectfully to suggest that a Public house being brought nearer to the Barracks and placed on the side of the road by which the men invariably go into the town is likely to be most prejudicial to the state of the Detachment and to solicit that your Excellency will be pleased to take such steps as will avert this further temptation.

I have the honor to be,

Your Excellency's

Most obedient servant,

His Excellency
J. G. MacKenzie
Governor of
The Falkland Islands

[D.] Gt Elliot
1st Lieutenant
Royal Marines
Commanding Garrison

8^o 18th.

Government House
Falkland Islands
September 6th 1864.

Sir,

I have the honour to acquaint
you that I have this day appointed
Sergeant John Smith to be a
Special Constable for these
Islands for the term of three
Calendar months from the
date of the enclosed appointment,
and I have arranged with
him that while employed
as an additional turnkey,
to assist Mr. Fowler Hocking
by taking charge of a division

Edward R. Griffiths Esq.
Stipendiary Magistrate
Falkland Islands

Y^{rs}

of the prisoners while at hard
labour on the Public Works,
he will receive pay at the
rate of five shillings a day,
provided he holds himself
in readiness to act in the
capacity of Constable at any
hour by night or day during
the period of his office. -

2. I should be glad
if you would give him such
General instructions for his
guidance as may seem to
you to be requisite, and that
you will inform him that
while actually in custody
of the prisoners he is to consider
himself under the orders of
the

the Surveyor General as regards
the work to be performed.

I have the honor to be
Sir

Your obedient servant

J. H. Mackenzie
Esq.

N^o. 204

Government House
Halkland Islands
October 5th 1864.

Sir,

I have the honour to
inform you that I have
summoned the Legislative
Council to assemble on
Monday the 24th instant
to consider a Bill for the
Protection of Wild Cattle on
Crown Lands; and also for
the purpose of repealing the
34th Section of the Summary
Jurisdiction Ordinance N^o. 11,
of 1853. and I have to request

Edward R. Juppitts Esq.
Stipendiary Magistrate
Hk Hk Hk

that

that you will be good enough
to furnish me at your earliest
convenience with a Draft
of the required Ordinance. —

2. I enclose for your
perusal a despatch on this
subject I have received from
Her Majesty's Secretary of State
for the Colonies, with an
enclosed letter from the
Immigration Board, which
I should be glad if you would
return to me as they are
original documents.

I have the honour to be
Sir

Your obedient servant

J. Mackenzie

My dear Sir

I omitted this morning at
the Council to ask you for a copy of the
minutes official in Elk. case. and as it is
necessary that I should read them over
before the meeting to-morrow will you
if they are ready. kindly send them to me
by bearer -

Yours most truly

W. Markings

Tuesday 8th Novr

N^o 224.

Government House
Hakland Islands
November 10th 1864

Sir,

With reference to your
letters of the 8th and 4th instants,
and their enclosures, on the
Case of the prisoner Mamel
Sill now lying under sentence
of death for the wilful Murder
of John Rudd, I have the
honour to acquaint you, as
well for your own information,
as for that of the other Gentlemen
who presided on the Bench

Edward R. Juppitts Esq.
Stipendiary Magistrate &
Chairman of the Courts
at

41
at the trial of this unhappy
man, that I have given
my most attentive
consideration to all the
circumstances of the case,
and having consulted with
my Executive Council on
the subject, I have resolved
not to interfere with the
course of the Law, since I
am utterly unable to find
any ground whatever upon
which I could with justice
extend the Royal Mercy to
the prisoner, who in my
judgment has been guilty
of a most premeditated and
atrocious murder.

I have the honour to be
ⁱⁿ
Your obedient servant

H. Mackenzie Govr

Steam Ship "Alford"
November 19th 64.

42

Sir

The prisoner Somers has agreed to ship in my vessel. I shall feel much obliged if you will take the necessary steps to have him released from Gaol.

I have made an application to his Excellency the Governor for that purpose.

I should wish in the event of my application being successful, that Somers might be taken to the office and put on the Articles at once, his wages being sixteen dollars per month. I am Sir
Yours obedient Servant
W. Griffiths
Stanley

No. 236.

Government House
Yakland Islands.
November 19th 1864.

Sir,

I beg to enclose a copy of a letter I have received from Captain Chatfield of the Steam Ship "Alford" requesting me to allow him to ship as seaman a man of the name of Somers now a prisoner in gaol.

2. Should you perceive no reasonable objection why this man should not be shipped. I have the honour to request that he may not be allowed to go on board the

Edward R. Griffiths Esq^r
Spendary Magistrate
Stanley

44
the "Alford" until the very
last moment of her departure;
that, is, in the event of the ship
leaving the Harbour before
the expiration of his sentence
in gaol is completed.

I have the honour to be
Sir,

Your obedient servant

J. Mackenzie
Yours

Steam Ship "Alford"
Stanley Harbour. November 19th 1864

His Excellency the
Governor of the
Falkland Islands.

Sir

I have experienced great difficulty
in getting men for my vessel. The
man Somers now a prisoner, wishes
to ship as seaman.

Will you be kind enough to
exercise your prerogative in his favor,
and allow him to leave the goal
for the purpose of shipping on
board my ship.

Mr. Griffiths has no objection
to offer.

I am, Sir your
most obedient servant

[Signature] C. W. Chalfield
Master
S. S. "Alford"

No. 247.

Colonial Secretary's Office
Falkland Islands
December 3rd 1864

Sir,

I am directed by His
Excellency the Governor to
acquaint you that it is His
Excellency's intention to pay
a visit of inspection to the
Courtthouse on Monday next
the 5th instant, at about noon
and I am directed to request
that you will be there to meet
His Excellency, if the weather is
at all fine.

I have the honour to be
Sir

R. Saffitts Esq^r
Spendiary Magistrate
H. H. H.

Your obedient servant
W. R. Payne
Colonial Secretary

Parsonage, Stanley
December 9th 1864

Sir, I have the honor to acknowledge
your letter of yesterday's date.
Next to the satisfaction I always
feel at having performed any
duty that may fall to my lot, there
can be nothing more gratifying
than having the testimony of those
whose opinion I value, that my
humble services are appreciated.

I have very cordially to thank you for
the handsome manner in which you have
conveyed to me the thanks of the Magistrates
who sat on the trial of Manuel Gile.

He has also availed to take this opportunity
of questioning that the unhappy criminal
fully acknowledged his guilt and
the justice of his sentence. He also
spoke some frequently about the
strict impartiality of his trial and
contrasted it favorably with what
would have been the course

Edw. Jeffries Esq
Chairman of the Court

78
pursued with him in his own
country.

I am Sir,
Yours Obedient Humble Servant,

Charles Bull M. A.
Minial Chaplain

Sir.

Stanley December 28th 1864

We the undersigned Justices of the Peace
beg to call your attention to a Public
Notice, and also to separate Notices
requiring us to attend at your Court
to consider the application of Thomas
Aldridge for a License to sell Spirituous
Liquors in the House he now occupies.
It is with a feeling of much regret that
we find you upsetting a decision given
in your Court by a full Bench of
Magistrates. And we are of an opinion
that by calling a new meeting to consider
a question already decided, and our
attendance at such a meeting will tend
to throw a slur on the decision then
given viz that Thomas Aldridge shall
not have a License for the House he now
occupies.

We therefore beg to Protest against
entertaining a second application on
the part of the said Thomas Aldridge.

We have the Honour to be
Sir

To
C. R. Griffiths Esq^r
Stipendiary Magistrate
etc. etc.

Your most obedient Servants
Arthur Dailly J.P.
Charles C. Tuckin J.P.
Wm Mac Clinton J.P.

Stanley December 29th 1864

50

No
answer was
sent to this
R.R.

Sir I have the honour to acknowledge the receipt of your letter of the 28th instant relative to a protest signed by the majority of Magistrates who presided upon the Bench when Mr. Thomas Aldridge applied for a Licence to sell Spirituous Liquors on the premises he now occupies.

I beg to inform you that as you have caused to be placed on the Public Gazette Board a notice, for a second application from the same person, to sell Spirituous Liquors, on the same premises, against which we have once given our unbiased and decided decision, such a notice signed by you as Stipendiary Magistrate I consider is publicly an announcement that any former decision is annulled.

With regard to your opinion that the protest should never have been addressed

C. R. Griffiths Esquire.

Stipendiary Magistrate
H. F. F.

to you as Stipendiary Magistrate;
 I beg to state that the notice I
 received requiring my attendance at
 your Court, as well as the Public
 notice on the Gosette Board are
 both signed by you as officiating
 in the capacity of Stipendiary Magistrate.
 I am therefore at a loss to know to
 whom we should have the honour
 of addressing our protest.

I have the honour to be

Sir


Your most obedient servant

Charles Longyngham Turpin

To

C. R. Griffiths Esq^r

Stipendiary Magistrate



Government House
Falkland Islands
December 30th 1864

Sir,

I have the honour to
enclose a Memorial I have
received from Thomas Aldridge,
(which being an original
document I request you will
return) towards the conclusion
of which he urges me to "see
to his case being heard again
before the Magistrates"

2. As it is impossible
for me to rightly understand

and R. Juppitts Esq.
pendiary Magistrate
H2 H2 H2

the

the exact nature of the
 Petitioner's Memorial without
 some further information,
 I am lead to call upon
 you to furnish me with a
 report of the case brought
 under my consideration.

I have the honour to be
 Sir

Your obedient Servant

J. Mackenzie Yours

No. 34.

Government House
Falkland Islands
February 6th 1865.

Sir,

With reference to the case now pending before the Court against Mr. Dean, a licensed Auctioneer, for a breach of the provisions of the Ordinance No. 5. 1853. I have the honour to request that you will report to me officially the result of the trial, as I have received a letter of explanation from Mr. Dean which leads me to think that the whole

Edward R. Griffiths Esq.
Spendiary Magistrate
H. Stanley

Matter

55
matter arose more from his
negligence than wilfulness;
and as the Law gives no
discretionary power to the
Bench to assess the penalty,
I should be disposed to
treat Mr. Dean with every
due and proper lenience, if
it should be in your power,
after the trial, to recommend
such a course to me.

2. I beg to enclose
a copy of Mr. Dean's letter
to me and my reply.

I have the honour to be
Sir

Your obedient servant

J. Mackenzie Esq.

Stanley Falkland Islands.
Febr^y 1st 1865.

Sir,

I beg most respectfully to apologize to Your Excellency for having inadvertently broken through our accustomed rule of forwarding to Your Excellency a catalogue of a public sale of Coal previous to the day of sale.

The fact stands thus: - I was too unwell myself to get up to write the notice, and therefore had to leave it to my brother to do: - and he merely put a notice on the Government Gazette Board twenty four hours before the sale.

I can assure your Excellency that the omission was unintentional and that it shall not occur again, therefore trusting your Excellency will see that there are sufficient grounds to withdraw the proceedings at the Police Court against me.

I have &c.

His Excellency
Governor Mackenzie.

B. / George M. Stan.

Copy of letter from H.E. the Governor to Mr. Dran.

Nº 32

Government House.
Falkland Islands.
February 6th 1865.

Sir,

I regret much that I did not receive your letter of the 1st instant at an earlier date, as the explanation it contained would have been sufficient to have assured me that the contravention of the 5th section of the Auctioneer's Ordinance Nº 5. 18653. for which an information was preferred against you at the Public Court on the 28th ultimo, arose more from negligence than from wilfulness.

2. I am sure you will agree with me how important it is that such mistakes should be stringently guarded against, affecting as they might often
do

George M. Dran Esq^r
Auctioneer &c. &c.
Stanley.

58
do. vast amounts of money and property. Even with regard to the case in point, had the Law been obeyed, the owners of the Coal sold at the illicit Auction in question, would certainly have realized a far higher price for their goods. -

3. I am equally confident that you will readily see that I have no alternative than to submit every circumstance of this nature to judicial investigation as the only sure means of protecting the Government from imputations of partiality in individual cases.

4. With respect to your suggestion that I might deem it right to withdraw the proceedings against you after the explanations you have given, I have to acquaint
you

you that it would be altogether beyond my province for me to attempt to check the due progress of the Law in any criminal case, once it has been set in motion. In a Civil action at Law I might be disposed to act differently, but in this instance it is plainly not in my power to interfere.

5. It only remains for me now to assure you that I am perfectly satisfied with your Explanations: that I directed the proceedings against you with great reluctance in the discharge of my duty: that I have no wish to see any pecuniary loss entailed upon you for what appears to have been entirely the result of accident: and that as you
have

have promised me to be more careful
 in future, I will take the subject
 further into consideration when
 the result of the trial is reported to
 me by the Chairman of the Courts,
 and I will then communicate
 with you on the subject

I have the honour to be
 Sir
 Your obedient servant
 /s/ J. G. MacKenzie
 Govr.

8th 36.

Government House
Falkland Islands
February 6th 1865.

Sir,

I have the honour to
acknowledge the receipt of your
letter of the 23rd ultimo, on
the subject of the Estate of
the deceased Manuel Gill,
executed for Murder on the
15th November last. —

2. As you inform me
that this unhappy man
expressed a wish before his

Edward R. Suffitt Esq^r.
Chairman of the Courts

death

Y^{rs}.

Y^{rs}

Stanley

death that his small property,
or the proceeds thereof, might
be bestowed upon his mother
living in Monte Video, I am
prepared on behalf of Her
Majesty to waive the rights
of the Crown in this instance.

2. I, therefore, have
to request that you will be
good enough to instruct Mr.
Constable Parry to dispose of
such saleable property as the
man possessed, by Public
Auction in the usual way.
And I leave it entirely to your
discretion to decide whether
you pay the residue of the
deceased's Estate into the
Government

Government Intestate Estate
 Fund here, or, whether you
 take such steps, as may seem
 to you advisable, for the
 direct transmissiom of the
 amount to his Mother. -
 This latter course has one
 clear point in its favor,
 and that is, that you have
 doubtless more facility in
 your department of discovering
 where the woman in question
 actually resides. - Should
 you think proper to adopt this
 course it will only be necessary
 that the receipt of the deceased's
 mother be obtained and kept of
 record among the archives of
 the Court.

Yours

Have the honour to
 Sir
 Your obedient servant

H. Mackenzie Yours

Ans'd 21st by letter
to Mr. Dean.

No. 42

Government House
Falkland Islands
February 16th 1865.

Sir,

I have had under my
consideration your letter of the
14th instant reporting to me
the imposition of a fine of \$50
upon Mr. Auctioneer Dean for
a breach of the Auctioneer's Ordinance.

2. I entirely concur
into your sentiments in this
case; therefore, acting upon
your recommendation, I hereby
authorise you to repay to Mr.
Dean the sum of Fifty Pounds

Edward R. Jeffries Esq.
Chairman of the Courts of Justice
Falkland Islands

Sterling

Sterling from Judicial Funds
 in your department; and I
 trust you will take occasion
 to impress upon Mr. Dean
 that any similar delinquency
 in the future will not be met
 by such unusual leniency.

I have the honour to be
 Sir

Your obedient servant

J. Mackenzie
 Jm.

in replying, quote the following

Initial Letter.

L

Admiralty.

25 February. 1865.

Sir,

Having laid before my Lords Commissioners of the Admiralty your application of the 26th of December last for two copies of the Rules and Regulations of Vice Admiralty Courts, for your guidance as Registrar of the Court in the Falkland Islands; I am commanded by their Lordships to transmit to you the same herewith, acquainting you, however, that 5 copies were sent sometime ago to the Governor of the Colony, for the use of the Court in question.

I am, Sir,

Your obedient servant,

J. C. P. M. J. M. J. M.

Captain Sibbald.

Rn

Stanley.

Falkland Islands.

RM

Letters sent
by Book Post

Vice Admiralty Court, Stanley
20th August 1865.

W.

I have the honour to acknowledge the receipt of your letter D. dated the 2nd February last, transmitting therewith two copies of the Rules and Regulations of Vice Admiralty Courts for my guidance as Registrar of the Court in the Falkland Islands. I beg also to acquaint you that for the information of my Lords Commissioners of the Admiralty that I have received from the Governor of this Colony the copies sent to him some time ago.

The Secretary
of the Admiralty.

I have &c

Lohnfidda.
Registrar

No. 68.

Government House
 Falkland Islands
 March 31st 1865.

Sir,

I have the honour to
 acknowledge the receipt of your
 letter of this morning's date,
 detailing to me the circumstances
 under which you guaranteed,
 and subsequently paid, to the
Man Law the sum of Five
 Pounds for services rendered by
 him in furthering the ends of
 Justice under your direction;
 having regard to which, I have
 no objection whatever to the

and R. Griffiths Esq.
 Stipendiary Magistrate
 R. Griffiths

adoption

adoption of the plan you have
 suggested for reimbursing
 yourself in that amount,
 I therefore authorize you to act
 according to your suggestion. —

Shave the honour to be
 Sir

Your obedient servant

J. Mackenzie Gore

Government House
Halkland Islands
April 4th 1865.

Sir,

I have the honour to request
your immediate attention to the
enclosed documents, in reference
to the sudden death of a man named
William Stewart, and I wish for
your opinion as my legal adviser,
as to what legal responsibilities are
involved in cases of this description
either as regards the Coroner or myself.
I also wish for your opinion as to
whether under all the circumstances
of the case there is any absolute
necessity for an Inquest in this
instance. In great haste

I have the honour to be Sir
Your obedient servant

R. Griffiths Esq.
Magistrate

J. MacKenzie

(Darwin).

Friday. P. M.

Mar: 31. 1865.

James Lane Esq^{re}
Colonial Manager

Sir

It is with a feeling of deep regret that I have to announce to you the death of old William Stewart which occurred since Tuesday last in the following manner. Mr Stewart was last seen on Tuesday morning near to the "Ceritos" leading a horse which was made fast to the girth of the horse he was riding. I was informed last evening that Stewart had not been seen for the last 2 days past. This morning I sent in search of him and Arguello found him with his horse laying on top of him in a valley between High Hill House and the "Ceritos" and then sent me word I left here with 6 of the men to go and see him and I found him in the valley (as named by Arguello) in

a hole of Peat and water from 3 to
 4 feet deep had it not been for his
 dogs remaining alongside of him
 most likely he would not of been
 found for months it was one of
 those valley with the long Indian
 grass in it and from the hill
 opposite to where he was lying you
 could not see either him or the
 horse untill you came within a
 foot or two of the spot. on taking
 the horse out of the hole I found
 that he had 1 foot fast in the
 stirrup and my opinion is (and
 the men present) that he must have
 been going to jump the ditch and
 the horse he was leading (which they
 generally do) set back and by so
 doing thrown both him and the
 horse into the hole and he was not
 able to extricate himself by having
 1 foot fast in the stirrup. The horse
 was laying lengthway on him and
 he had 1 hand hold of the reins and
 head stall I should say and it is
 also

also the opinion of the men that he must of been dead at least 2 days part of his face has been eaten by rats during the time he has been laying there. I wish to know from you if I can bury him for I can assure you the body will not keep. annexed I give you the mens signatures that were present and all fully agree with the above statement.

As witness our hands this
31st day of March. 1863.

130 George Stewart.

150 Thomas Williams

S^d C. M. Supple.

32. J. M. ^{his} _{mark} Aguello

S²/ J. Williams ^{his} X Herkis.
 S²/ I ^{mark}

S^r James ^{mark} Hunter.

George ^{mis} Harrington
Mark

with no more at present.

I am Sir

Yours Obed. Servant
J. S. P. John Bomeer

I cannot think what can be
keeping Kingsford.

No 70.

Government House.
Falkland Islands.
April 4th 1865.

Sir,

In the afternoon of Saturday last I was engaged on business of the Public Service with the Colonial Secretary in his Office, when Mr. Forster arrived and communicated the sad intelligence of the death of William Stewart, one of the Company's shepherds, who was found dead in the camp about 60 or 70 miles from here. Mr. Forster also left with the Colonial Secretary, who is likewise Coroner for the Islands, a letter addressed to you by the Company's Camp Manager detailing the circumstances under which the

deceased

mes Lane Esq.
Falkland Islands Company
Stanley.

ms
over

deceased was discovered.

2. I gave the subject serious attention, and I felt at once how very desirable it would be that an Inquest should be held both on account of the peculiarities of the case itself, and unmeasurably more so when viewed in connection with the recent revolting murder of John Rudd, which was, as I understand, perpetrated in the vicinity of where the body of the man Stewart has been found. I had also in mind the late melancholy & somewhat miraculous disappearance of Mr. Jennings of St. M.S. "Harrier", whose body, if dead, has never yet been found.

The

The Coroners opinions being in entire unison with my own, I at once directed a coffin to be made by the Government Carpenter, and sent an order to the Master of the "Foam" to prepare for sea, intending her to leave at daybreak this morning, or last night if the coffin could be got ready.

3. I now address this letter to you because I have heard with much surprise and regret that the body of the deceased has been carried some 40 or 50 miles, and buried at Hope Place. I am at present unaware by whose authority this has been accomplished, and I can only hope that it is incorrect, as it seems to me a strange proceeding; particularly,

when it is known that it is an
indictable offence to bury a man
that dies a violent death before
the coroner's Inquest has sat upon
him. I must ask you to be
good enough to furnish me with
all the information in your
power on this subject at your
earliest convenience, as I
cannot lose sight of the im-
portance of an Inquisition in
the present case; for it occurs to
me that any neglect of adequate
inquiry could only tend to
stimulate a feeling, unfortunately
prevalent, that life is specially
insecure when travelling through
the interior, and that even
murder may be committed
with impunity; a state of things
which

which ought never to exist in so small a Colony, and which must be put an end to.

4. In writing this I fully feel that you must be deeply interested in this matter, and I have relied with confidence upon receiving from you all the support and assistance in your power.

5. The holding of an Inquisition in this case is beset with many difficulties which I fear may prove insurmountable unless I receive the fullest co-operation from you. As it is necessary that the Inquest be held *super visum Corporis* there are but two courses open, viz^t to have the corps sent up here, or for the Coroner to hold his enquiry in the neighbourhood of

of where the body was found.
 In the first case all local evidence
 will be lost, and you must be
 prepared to have those of the
 Company's servants who were
 present at the finding sent for
 as witnesses; on the other
 hand a corresponding advantage
 will be gained to the community
 by not having the only medical
 man in the Colony sent away
 from the Settlement. If the
 latter course is pursued these
 difficulties are cleared away,
 but only for new obstacles to
 present themselves, which it is
 perhaps premature to conjecture
 the extent of until I know whether
 the body is in reality buried or
 not, and where it has been
 taken to.

6. If the statement I have heard is correct, I am still prepared to send the "Foam" to Darwin Harbour, if you will undertake to facilitate the further prosecution of the object in view by rendering such assistance as you can give on the spot. I have every reason to believe that you will do so willingly, and I only mention this because without such help on your part it will be impossible in my opinion to effect what is desired. I would only further point out that the "Foam" has shortly to leave for Monte Video with the Mails, and she needs much repair before she can leave. I would therefore suggest, under all the circumstances,
of

of the case, whether it would not be in your power, with the additional means at your disposal of the two vessels the "Fairy" and the "Perseverance", now in the harbour, to send round for the body to be brought into Stanley, and to have up such witnesses only as are absolutely required.

I have &c.

/s/ J. Mackenzie

Govr.

Dr. 21 ~~Butter~~ ~~that~~ ~~stays~~ ~~making~~ ~~like~~
should be answered first.

Now is an ~~absolute~~ ^{absolute} certainty in ~~the~~ ^{the} ~~future~~ ^{future}

What according to the Chinese & Japanese

The corner is better to

1

2.

3

42

4
habituell. Kymulz

82. 86.

Colonial Secretary's Office
Halkland Islands
April 13th 1865.

Sir,

I have the honour to report to you that on the 11th instant a Coroner's Inquisition found that a man named Felice Garcia, a native of Patagonia, died by the visitation of God, on the 4th instant, at Darwin Harbour.

2. To the best of my belief this man died intestate, and I enclose a copy of a list of his property forwarded

Edward R. Figgitts Esq.
Chairman of the Courts of Justice
R. R. R.

to

to me by Mr. John Boman,
in case the Magistrates Court
may be pleased to issue
letters of administration in
this behalf. —

Administration of Justice
Ordinance No. 10. of
1853, Clause I.

I have the honour to be
Sir

Your obedient
humble servant

W. R. G. Jones

Colonial Secretary &
Clerk for the
Falkland Islands

Both men left in
"morning"

Sp. 96.

Government House
Falkland Islands
April 25th 1865.

Sir,

I have just received your letter of this day's date, and as you would seem to advocate the remission of the residue of the sentences of the prisoners Scott and Jackson now in goal, I am willing to act upon your recommendation; I will, therefore, send an authority to the Gaoler to discharge them from his custody within 12 hours preceding the departure of the vessel, on condition however that they are

Edward D. Juppitt Esq^r
Stipendiary Magistrate
H. H. H.

not

not to be allowed to come ashore
before the "Graham" sails, and
they must be accompanied on
board by Mr. Constable Parry.

2. It is perhaps as well
that I should mention here
as applicable to future similar
occasions that I cannot sanction
any repayment to the Seaman
Scott in respect of the subsistence
money lodged in the Couch by
the Master of the ship from
which he was discharged.

I have the honour to be
Sir

Your obedient servant

H. Mackenzie
Yours

Ans! to circular & interrogatories
sent. July 15th.

No. 98.

Government House.
Falkland Islands
May 2nd 1865.

Sir,

I have the honour to
transmit to you, enclosed, a
Circular I have received from
the Right Honorable Edward
Cardwell. M.P. on the subject
of Prisons, Prison Discipline, and
a variety of matters connected
with Gaols, and the treatment
and routine of offenders. —

This Circular is accompanied
by a series of interrogatories, &
I have marked with a red cross

Edward R. Jiffith Esq.
Magistrate
for the

those

I to XXXVII
inclusive.

16th January 1865.

those which especially apply
to your department. —

2. Putting aside that
there is of course much important
matter, involved in the Comprehensive
way in which this subject has
been handled in England, which
is quite inapplicable to this
Colony, in its present infant
state, I still feel that an
opportunity is now offered to
us to bring under the notice
of Her Majesty's Government
the inefficient, I might almost
say, disgraceful, state of the
whole police and Gaol Establi-
shment in the Colony, and if
you will be good enough to
give

Give your early and serious
attention to the papers now
 laid before you, I have little
 doubt but what we shall
 be enabled to effect much
 that is desirable and necessary.

I have the honour to be
 Sir

Your obedient
 humble servant

J. MacKenzie *Jm.*

new 4 lat last
 web day 13th
 letter day 12th

100.

Government House
 Falkland Islands
 May 2nd 1865.

Sir,

I have the honour to
 enclose a printed description
 of the weight and dimensions
 of the Regulation "Cat", to be
 used in all cases of the infliction
 of Corporal Punishment.

2. I also send you a
 model of this "Cat" when made,
 which, however, I must ask you
 to return to me as I am about
 to direct the Surveyor General
 to have another made for

and R. Juppitts Esq.
 stipendiary Magistrate
 H² H² H²

actual

actual use in the yard. —

I have the honour to be

in

Yours obedient

humble servant

J. Mackenzie *Yours*

Weight and Dimensions of the Regulation "Cat."

Weight of "Cat" complete	9 oz.
do handle covered with cloth	..	..	..	6 $\frac{3}{4}$	„
do Tails	..	..	..	2 $\frac{1}{4}$	„
Number of laid cord tails	..	..	..	9	
do knots on each tail	..	..	..	3	
Length of tails knotted	..	..	..	33 in.	
do handle	..	..	..	19 $\frac{1}{4}$	„

Government House
Falkland Islands
May 2nd 1865.

Sir,

This morning a man named Thamel Pennie, a native of the Western Islands, who has been some five years resident in the Colony, applied to know whether there existed any prohibitive law which would debar him on account of his alienage from holding freehold landed property in the town of Stanley. It appears that this man has saved money

W. R. Griffiths Esq.
Mr. Mr.

and

Stanley

97
and is desirous to invest it in the
purchase of a small portion of
land upon which to erect a
house, but he is naturally
disinclined to risk his earning
in this manner if he is open
to any exceptional risk of
becoming dispossessed of his
property to which risk persons
born in the Queen's allegiance
are not liable. —

2. I refer the question
for your legal opinion because
much diversity of opinion
has existed throughout the
Colony on the subject from
the first days of the establishment
of a settlement here.

I have the honour to be
Sir
Your obedient servant

H. Mackenzie Esq.

103.

Government House
Falkland Islands
May 5th 1865.

Sir,

I have the honour to enclose
a claim made by the Falkland
Islands Company against the
Government for compensation
with reference to the Judgment
of the Privy Council given on
the 28th of July 1864; and as
many of the items comprised
in this claim are fees, & costs,
fines, &c., levied in the Colonial
Law Courts, it is necessary
that each such item should

R. Juppitt Esq.
Magistrate
Mr. Mr. Mr.

be

91.
be checked.

2. If, after a careful investigation, the amounts and dates prove to be correct, will you be good enough to furnish me with a certificate to that effect; and, if, on the other hand, there should appear to be any discrepancy between the enclosed documents and the records of the Police Court, I shall feel obliged if you will forward me a detailed statement of any such inaccuracies.

I have the honour to be
Sir
Your dedicated servant

J. J. Mackenzie Esq.

129.

answered
same day.

Government House
Falkland Island
July 11th 1865.

Sir,

Adverting to my letter N^o. 103,
of the 5th of May last, and your reply
enclosing a certificate of the various
sums paid into Court by the Falkland
Island Company under the judgment
given against them by the Colonial
Court on the 26th February 1862; I have
to draw your attention to the enclosed
document showing that the
amount of the fine inflicted and
the aggregate costs in the suit were
£1,091 "8" 2, whereas the certificate
above referred to acknowledges the

receipt

W. R. Griffiths Esq.
Magistrate
H. H. H.

receipt of various payments into
 Count by the Company amounting
 together to £ 1092 " 19 " 8.

2. I have the honour to
 request that you will report to
 me the Cause of this apparent
 discrepancy. And I should be
 glad of your reply in the course of
 this afternoon if possible.

I have the honour to be
 Sir
 Your obedient servant

J. J. Mackenzie Yours

146.

Colonial Secretary's Office
 Falkland Islands
 August 26th 1865.

Sir,

I have the honour to enclose
 a letter, and, a small leather
 pocket book, transmitted to
 me, inadvertently, by the
 Master of the Hawaiian Schooner
 "Oranien", Samuel Miller.

I presume that no
 difficulty will be experienced in
 ascertaining the address of the
 relatives of the deceased as I am
 informed that he was well known
 in the Settlement.

I have the honour to be, Sir,
 Your Obedient Servant,
 W. R. Kane
 Colonial Secretary

R. J. Griffiths Esq.
 Clerk of the Courts
 H. H.

San Salvador, 101
May 15th/65

Sir,

I have to write to you
to explain an accident that happened
on board the Ononuas on Monday
May 8th at 10.30^{h m} A.M. in Latitude
51.10^m Longth 58.40^m. -

On May 5th we sailed from Sparrow
cove with one John Shue Seaman
on board, to all appearance in
good health; on the 6th the said
John Shue complained of being un-
well, one of the crew came aft.
and told me, I went into the
Dore Castle to see him and found
he was suffering from Delirium -
Tremens. I gave him a dose of
Epsom Salts No 1) and three glasses

of Brandy each succeeding day
up to Monday. the 8th

On the 7th he appeared to be getting on
better and came on Deck to work

and remained there the greater part
of the Day. On ~~Monday~~ ^{Monday the 8th} ~~the 8th~~
he came on Deck very early and
remained till half past ten when
he walked aft exclaiming I
have seen God & lost the Virgin
Mary he then took hold of the
Main Sheet and swung him-
self Overboard.

The vessel's headway was immediate-
ly stopped and the boat lowered with
all possible haste, but to no
avail, for the sea being very
rough neither those in the boat
nor those on board the vessel
saw him after the boat was in

the water. after pulling about
for 10 or 15 minutes the boat came
on board and I made sail for
this port.

On the 14th I sold the few clothes
he had on board the sale of which
amounted to £2.11 - A packet
book belonging to the deceased I
forward with this letter -

I have the Honor to be
Your most Obedient Servt.

S. Miller

C. R. Wyne Esq.

No 156.

Colonial Secretary's Office.
Falkland Islands.

September 19th 1865.

Sir,

I am directed to request that you will meet His Excellency the Governor at the Schoolrooms on Thursday next the 21st instant at half past 10. A.M. - provided the weather is tolerably fine and that it is not inconvenient to you. If it is, I am desired to say that any other time will suit His Excellency equally well.

I have the honour to be
Sir

Your obedient Servant.

W. R. Griffiths Esqre
Spendiary Magistrate &
Inspector of Schools.

W. R. Rye
Colonial Secretary

46

46

46

Received on the
27th Sept /65.
Ans. 30th October
1865

104

Replying, quote the following
Initial Letter.

L

Admiralty,

9th July, 1865.

Sir,

Her Majesty having been pleased, by Her Order in Council of the 29th ultimo, to issue Regulations for the Distribution of Naval Prize Money, &c., after the 30th September, 1865, according to the Scale therein set forth, I am commanded by my Lords Commissioners of the Admiralty to transmit to you a Copy of the Queen's Proclamation, which is to take effect on and after the 1st of October, 1865, and I am to request that you will, without delay, acknowledge the receipt of the same, in order that the date of such receipt may be duly noted.

I am,

Sir,

Your obedient Servant,

d/2

Enclosed (ans)

H. G. Romaine

W. G. Romaine

recd

28th November
1865.

29th December

Admiralty Registry

Doctors' Commons

London

29th September 1865

Sir,

By the direction of the Lords
Commissioners of the Admiralty I send
you herewith (by Bookpost) six Copies of
certain Regulations touching the Practice
to be observed in Proceedings instituted

Judge of the Vice Admiralty Court
of the Falkland Islands.

in the Vice Admiralty Courts abroad on behalf of Her Majesty's Ships, which have been established by Her Majesty's Order in Council of the 9th instant, in lieu of the existing Regulations on the same subject which were established by an Order in Council of the 22nd October 1859.

I beg also to send six copies of the Act 27 + 28 Vict. cap. 24 intituled "The Naval Agency and Distribution Act 1864", to the 12th Section of which reference

REGULATIONS
is made in the new Regulations.

I am to request that you will call the attention of the Officers and Practitioners of your Court to the new Regulations, which, as you will observe, entirely do away with the existing Regulations, by which, in certain cases, the Proctors for the Captors of Prizes are authorised to draw upon the Accountant General of the Navy for so much of the costs as may remain unpaid.

I have also to request
that you will be good enough to
acknowledge the receipt of the accompanying
Documents.

I am,

Sir,

Your most Obedient Servant

W. Rothery

W. Rothery

REGULATIONS

TOUCHING THE PRACTICE TO BE OBSERVED

IN

COURTS OF VICE-ADMIRALTY

A B R O A D

IN PROCEEDINGS INSTITUTED ON BEHALF OF

HER MAJESTY'S SHIPS,

Established by Her Majesty's Order in Council bearing Date the 9th Day of September 1865.



LONDON:

PRINTED BY GEORGE EDWARD EYRE AND WILLIAM SPOTTISWOODE,
PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.
FOR HER MAJESTY'S STATIONERY OFFICE.

1865.

REGULATIONS

GOVERNING THE SERVICE TO BE OBSERVED

COURTS OF VICE-ADMIRALTY

A BROAD

IN PROSECUTION OF THE ACT OF PARLIAMENT

RELATIVE TO THE SERVICE OF THE

ACT OF PARLIAMENT RELATIVE TO THE SERVICE OF THE



PRINTED BY GEORGE EDWARDS AND WILLIAM BENTLEY
 PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY
 IN THE CITY OF LONDON

1807

At the Court at Windsor, the 9th day of September 1865;

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS there was this day read at the Board a Memorial from the Right Honourable the Lords Commissioners of the Admiralty, dated the 25th of August 1865, in the words following, viz. :—

Whereas by the Act 26th Victoria, Cap. 24, intituled the “Vice-Admiralty Courts Act, 1863,” it was, amongst other things, enacted that Your Majesty might, by Order in Council, from time to time, establish Rules touching the Practice to be observed in the Vice-Admiralty Courts, and might repeal and alter the existing and all future Rules, and establish new Rules in addition thereto, or in lieu thereof. And whereas by the Act 27 & 28 Victoria, Cap. 24, intituled “the Naval Agency and Distribution Act, 1864,” it was, amongst other things, enacted that Your Majesty in Council might from time to time make such Orders as should seem meet for the better execution of that Act: And whereas by an Order in Council of the 22nd day of October, 1859, certain Rules, Orders, and Regulations were established touching the Practice to be observed in Courts of Vice-Admiralty abroad in Proceedings instituted on behalf of Your Majesty’s Ships, and it is expedient that the said Rules, Orders, and Regulations should be repealed, and that new Regulations should be established in lieu thereof: Now therefore, we, Your Majesty’s Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, do humbly submit that Your Majesty will be graciously pleased to repeal the said Rules, Orders, and Regulations established by Your Majesty’s Order in Council of the 22nd day of October 1859, and in lieu thereof to establish the following Regulations:—

I. Whenever any proceeding has been instituted in any Vice-Admiralty Court within Her Majesty’s Dominions, by or on behalf of any of Her Majesty’s Ships, for or in respect of any of the matters enumerated in the 12th Section of the Naval Agency and Distribution Act, 1864, the Proctor who shall have conducted such proceeding on behalf of Her Majesty’s Ship shall, on the termination of the suit, submit his Bill of Costs for taxation, and the Court shall thereupon tax the same as between Proctor and Client.

II. If in any such proceeding any proceeds have been realized and are remaining in Court, the Court may order the amount at which the Bill of Costs has been taxed

Her Majesty, having taken the said Memorial into consideration, was pleased, by and with the advice of Her Privy Council, to approve thereof, and of the Rules, Orders, and Regulations therein contained, and also of the Form thereunto annexed. And the Right Honourable the Lords Commissioners of the Admiralty are to give the necessary directions herein accordingly.

(Signed) ARTHUR HELPS.

L O N D O N :

Printed by GEORGE E. EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty.

For Her Majesty's Stationery Office.

[6858.—500.—9/65.]

ms. 25th
October 1865.

66.

Government House
Halkland Islands
October 10th 1865.

Sir,

I have recently received a letter from Lieutenant Elliot R.N. setting forth the inconveniences and irregularities occasioned in his detachment in consequence of the detention in gaol of one of his privates named Mallen.

2. Our Garrison of Royal Marines has never since its organization been equal to its duties, owing to the smallness of

W. R. Griffiths Esq.
Magistrate
H. H.

of its numbers. Since then two men have been sent home, and with the additional loss of the one now under confinement, allowing also for illness and other contingencies, the detachment is at this moment very nearly useless.

3. I can fully appreciate the difficulties of Lieutenant Ellett's position, and I bear in mind also the repeated representations from the Surgeon General that the Public Works are retarded for want of Marine artificers.

4. I will now allude more immediately to the object of this letter. On the one hand I cannot help feeling that in so peculiar

peculiar a settlement as this
 it is sometimes wise to act a
 little at variance with the strict
 practices in force elsewhere, and
 I am thus disposed to show
 such leniency in this prisoner's
 case as can be done without
 encouraging a belief that the
 punishment of crime is uncertain.
 On the other hand I do not
 consider any amount of loss
 or detriment to the public service
 a sufficient reason for pardoning
 a criminal unless coupled with
 such favourable reports from
 the Gaoler as to conduct which
 would justify an exception
 in his favour.

5. However I doubt
 at present know anything of
 the case in point I have alluded
 more to my general opinions in
 such

such cases. I must therefore
 ask you to furnish me with
 a copy of the man's trial and
 also of the evidence upon which
 he was convicted. I have also
 the honour to request that you
 will accompany these documents
 with a report from yourself, and
 that you will favour me with
 your opinion as to whether you
 think it might be expedient
 in the course of a few months
 to commute the sentence on the
 condition of good conduct while
 under sentence provided the judges
 can testify to the same.

I have the honour to be
 Sir
 Your obedient servant

H. Mackenzie Govr.

Received same by
 order 28th.

8th 1st 1.

Colonial Secretary's Office
 Falkland Islands
 October 26th 1865.

Sir,

I am desired by H.E. the
 Governor to transmit to you the
 enclosed Circular into its
 enclosure, and to request that
 you will be good enough to furnish
 copies of every Bath of any
 description required to be taken
 in your department.

I have the honour to be
 Sir

Your obedient servant

H. P. Jones

Colonial Secretary

Edward R. Griffiths Esq.
 Stipendiary Magistrate
 H. H. H.

To be returned.

ans? Sunday

No 172.

Government House
Falkland Islands
October 24th 1865.

Sir,

I have the honor to transmit
to you a letter I have just received
from Mr. G. M. Lean, enclosing,
among other papers, a document
signed by Mr. H. H. Smyler the
United States Commercial Agent,
purporting to appoint him to
act during his absence in the
capacity of Act^d. Com^r. Agent.

2. Mr. Lean requests
that I will gazette his appointment,
but before complying with his

Edward R. Juppitts Esq^r.
Stipendiary Magistrate
Mr Mr Mr

request

to be returned

request I wish to have the
benefit of your opinion as to
whether the document herein
before mentioned is in fact
a valid delegation of authority.

3. The subject is not
one which could ever affect
this Government, because I fully
recognise Mr. Dean as ipso facto
Commercial Agent in any
matters of a diplomatic nature,
until Mr. Ingle's return, or, until
some other person is properly
nominated in his stead; and
as to any citizens of the United
States they are of course at liberty
to please themselves on their own
responsibility.

H.

4. I must ask you
to forward me with your reply
to this letter, as well as that to a
letter from the Colonial Secretary
yesterday's date, if possible,
in the course of this afternoon.

Shanté Bonnetto
Sir
Your obedient servant
H. McKenzie
Yours

No 180.

and? with draft
enclosed on Dec. 19th/65

Government House
Falkland Islands
November 3rd 1865.

Sir,

The unfortunate prevalence
of the disease known as "scab,"
amongst the sheep on this island,
has for some time past called
my attention to the necessity of
proposing to the Colonial Legislature
some measure for regulating
the management of infected
animals, and for restraining them
within such limits as will
protect neighbouring sheep owners

Edward R. Jeffitts Esq.
Stipendiary Magistrate
for the

from

from the ruinous consequences
of this frightful malady.

2. I have obtained
copies of the various Sheep Ordinances
passed in the Province of Canterbury
which I enclose herewith: and
I have the honour to request
that you will furnish me
with the draft of an enactment
applicable to the circumstances
of this Colony.

3. I need hardly ask you
to give your earliest possible
attention to this, because I am
sure you will agree with me
as to the importance of protecting
and encouraging sheep farming
as the most important and
lucrative

Sessin X No. 9.
Sessin X No. 10.
Sessin XI No. 1.
Sessin XVII No. 1.

lucrative enterprise pursued in the
islands.

I have the honor to be
Sir

Your obedient servant

H. Mackenzie
Yours

recd
Nov. 6th/65

183.

Colonial Secretary's Office
Halkland Islands
November 4th 1865.

Sir,

On the 8th ultimo a man named Hogan, alias Haugen, alias Horne, alias Hugenius, died in this town of rupture of the heart: he was a native of Rotterdam and I understand his relations reside in the Province of Gelderland in Holland. -

2. I am in possession of the sum of £3..10..0 belonging to the deceased deposited with me in pursuance of the Alien Ordinance for his passage to Monte Video. I am, therefore, most anxious to

and Rogers Juppittes Esq.
pendiary Magistrate
R. J. R.

to gain information whether
 any executor has appeared to
 sue forth probate, or, whether,
 if the deceased died intestate,
 any letters of Administration
 have been granted and committed.

3. I shall be glad if
 you will kindly let me know
 to whom the money in my
 charge is to be paid.

I have the honour to be
 Sir

Your obedient servant

W. P. Ryne
 Colonial Secretary

Received Sunday
and P. 2 of
Draft sent 16/12/65.

191.

Government House
Falkland Islands
November 28th 1865.

Sir,

I have the honour to enclose
a copy of a letter addressed to
me by James Anderson a
native of Denmark who is
desirous of being naturalized,
and as this man has always
borne a very good character in
the Colony I intend to propose
to the Legislature a bill for the
purpose of complying with his
request at the next meeting
of the Legislative Council: I,
therefore, have the honour to
instruct you to prepare a draft

Edward R. Juppitts Esq.
Sipendiary Magistrate
P₂ P₂ P₂

if

of the required Ordinance.

2. I have explained to the applicant that the effects of his naturalization cannot extend beyond the limits of this Colony and its dependencies.

I have the honour to be
Sir

Your obedient servant

J. Mackenzie Esq.

Copy of letter from James Anderson to ¹²⁰ H.E.
the Governor.

Stanley. Falkland Islands.
November 27th/865-

Sir,

As I am desirous of becoming a permanent settler of the Colony, I humbly beg Your Excellency to confer upon me the privilege of a British subject. I beg to place ^{before} your Excellency the following necessary information which Your Excellency may require

I am a Dane by birth

A seaman by occupation with a certificate of second officer.

I have resided in the Colony for 6 years

Praying your Excellency favourably to consider my request.

I have &c

/s^d/ James Anderson

192.

Colonial Secretary's Office
Falkland Islands
November 30th 1865.

Sir,

I have the honour to enclose
a volume of Public General
Acts 28^o & 29^o Victoria which
arrived by the last Mail.

I have the honour to be
Sir

Yours obedient servant

A. L. G. M.

Colonial Secretary

and R. Griffiths Esq.
Sessary Magistrate
R. R. R.

and 6 December 1865

8^o 199.

Government House
Falkland Islands
December 5th 1865.

Sir,

I have the honour to acquaint
you that I have received your
letter of this days date suggesting
that it would be desirable to
comply with the application of the
Master of the "Fairy" as regards the
release from prison of John Martin
now in gaol in order that he
might ship on board the "Fairy".

2. Your communication
contains two important points
which forbid my giving an

and R. Juppitts Esq.
Sundary Magistrate
R. Juppitts Esq.

immediate

immediate decision.

In the first place the prisoner Martin is an Alien, and, therefore I could not consent to liberate him from custody unless the Master of the "Fairy" is made to understand thoroughly that when he returns to this Port he shall not be allowed to permit him to land in the Colony, without subjecting himself to the penalties imposed by the Alien Ordinance No. 4, 1853. —

Secondly, in respect of his being shipped on board the "Fairy", I am anxious for your professional opinion, as legal adviser to my Government, as to the extent to which the provisions of the Merchant Shipping Act 14th & 18th

Vict:

Vict: Cap 104 apply to this case.

3. I enclose for facility of reference a copy of an Ordinance passed to provide for the application of the Merchant Shipping Act to the Falkland Islands

4. The 149th Section of this Act runs as follows:
 "The Master of every ship, except
 "ships of less than 80 tons registered
 "tonnage exclusively employed in
 "trading between different ports
 "on the coasts of the United Kingdom,
 "shall enter into an agreement
 "with every seaman whom he
 "carries to sea from any port in
 "the United Kingdom as one of his
 "crew in the manner hereinafter
 "mentioned &c. &c. &c." —

5. The 150th Section states — "In the case of all Foreign
 "— going

"-going ships, in whatever part
 "of Her Majesty's Dominions the
 "same are registered the following
 "rules shall be observed with respect
 "to agreements: &c. &c. &c."

6. The 154th Section
 imposes a fine not exceeding
 Five Pounds upon the Master
 whenever the required agreement
 is not entered into.

7. The 159th Section
 provides that all seamen engaged
 in Ships registered either in the
 United Kingdom or in any British
 Possession shall be shipped
 before the proper authorities.

8. I shall be glad to
 have the benefit of your opinion
 as to whether, or not, such vessels
 as the "Foam", 41 tons burden,
 the "Fairy", 40 tons, & other similar
 crafts, are bound by law to

enter

enter into Agreements with the crews in the manner specified in the Act. - Both these vessels are British Registered Vessels, their official numbers being respectively 40,502, and 26,899. - They are evidently under tonnage; but they cannot be said to be "Exclusively employed in trading between different ports on the coast &c &c" - inasmuch as they are both "Foreign-going Ships". -

9. I beg to solicit your early attention to this subject, as seriously affecting the property and lives of Masters and crews both clearing from and entering this Port, because it is no light matter that a small but privileged

Class

Class of traders should be
 exempted from the provisions
 of an Act passed to check the
 lawless depredations and crimes
 which, hitherto disgraced our
 Mercantile Marine.

I have the honour to be
 Sir

Your obedient servant

J. J. Mackenzie Esq.

To Governor
Sir

December 9th 1865

128

I have the honor to acknowledge the receipt of yr
Gentle letter of the 5th and 8th inst. with reference
to the application of the Merchant Shipping Act ¹⁸⁵⁴
which relates to the Fairy and Joan.

No. 3 I am of opinion that the Ordinance
¹⁸⁵⁷ was framed with the intention of providing
making that act a part of the law of
the Colony ^{and applying to the fact that it is} ~~and applying to the fact that it is~~
upon which not perhaps in the exact case now
under consideration.

It ~~however~~ ^{therefore} that Merchant Shipping Act
as intended by the Ordinance is a portion of
the law, then I think that all vessels
foreign going ^{to or from} ~~vessels~~ of any tonnage must
obey the provisions of the Ordinance.
and I can see nothing to lead me to believe that the Fairy or Joan
came under the exception mentioned in the 109th section of the Act ¹⁸⁵⁴
or that it is ~~any~~ ^{an} exception of its application.

In any particular case it would be
in my opinion desirable to raise the
question in order that the matter should
receive be argued and carefully considered
by the Court. In the case of the Fairy I
~~in this~~ ^{agree with your banking} ~~is a matter of great importance~~
think the this part of the Merchant Shipping
Act I do not myself see at present any
thing the evidence that the Fairy or Joan
~~is exempted~~ ^{comes under} the exception
mentioned in the 109th sect. of the Merchant
Shipping ¹⁸⁵⁴ Act. I have the honor to express
my entire agreement with your banking in thinking
it is a matter of great importance to be

Ans. 2. Dec 9th

P. 202

Government House
Falkland Islands
December 8th 1865.

Sir,

I have the honour to
request that you will be
good enough to favour me
with a reply to my letter to
you of the 5th instant at your
earliest convenience. —

I have the honour to be
Sir

Your obedient servant

J. Mackenzie
Jm

ward R. Griffiths Esq.
Spendiary Magistrate
R. R. R.

No. 206.

Government House
Falkland Islands
December 19th 1865.

Sir,

I have the honour to acquaint
you that I have this day
appointed Robert Christopher
Packer Esq. to be a Justice of
the Peace in the place of Charles
Conyngham Turpin Esq. who
has tendered his resignation.

I have the honour to be
Sir

Yours faithfully

Richard N. Griffiths Esq. J. J. Mackenzie
Spendiary Magistrate
Falkland Islands

Received same day.
Warrant sent to Parker Esq.

82.30.

Government House
Falkland Islands
March 24th 1866.

Sir,

In reply to your letter of this
day date I have the honour
to inform you that I fully
agree with you as to the propriety
of remitting the unserved portion
of the sentence of the prisoner James
Edwards and I therefore enclose
a warrant under my hand for
his liberation.

I have the honour to be, Sir,
Your obedient servant

Edward R. Sutherland Esq.
Stipendiary Magistrate
R R R

J. Mackenzie Esq.
Govr.

No 32

Government Office.
Falkland Islands.
April 4th 1866.

Sir.

I am directed by His
Excellency the Governor to request
your attendance at a Meeting
of the Legislative Council to be
held on Tuesday the 10th instant
at eleven o'clock in the forenoon
in the Council Chamber for the
purpose of amending the
Summary Jurisdiction Amend-
ment Ordinance No. 2 of 1864.

and

R. Griffiths Esq^r
Spendary Magistrate
member of the Legislative Council
H^c H^c H^c
Stanley-

and also for passing an Ordinance for the Naturalization of James Anderson, a Resident of the Falkland Islands.

Drafts of these Ordinances are herewith enclosed.

I have the honour to be
Sir

Your obedient Servant

A Byng.

Clerk to the Council

Navy Jurisdiction Amendment Ordinance.

Number One

the Year of Our Lord One thousand eight hundred
and sixty six.

By His Excellency James George
MacKenzie Captain in the
Royal Navy Governor and
Commander in Chief of the
Falkland Islands and the
Dependencies thereof, with the
advice and consent of the
Legislative Council thereof.

Whereas it is Expedient to ^{repeal the} prevent
the ~~destruction of Penguins on any lands~~ ^{Spring Jurisdiction Amendment Ordinance No 2 1864 but the}
the same time ⁱⁿ prevent the destruction of Penguin ^{on} many lands
on the East Falkland Island and Islands
adjacent thereto lying North of Choiseul
Sound and Blenton Lock.

And Whereas it is Expedient to
^{delete} reduce the penalty inflicted under the
second clause of the Penguin Ordinance
No 2. 1864.

Be

He it enacted that the second clause of the said Ordinance
 Feb 2 1864 be altered & the following substituted in
 its stead.

1. That if any person shall
 after the date of the passing of
 this Ordinance Kill or cause to
 be killed for commercial pur-
 -poses, or wantonly any Penguins
 on lands on the East Falkland
 Island and Islands adjacent thereto
 lying North of Choiseul Sound and
 Brenton Lock, he shall be liable
 to a fine not exceeding (£50 /
 Thirty pounds Sterling -

Penalty for killing
 Penguin on land
 on Northern
 Peninsula of the
 Falkland Islands

2. That if any person shall
 make use of any boat or vessel
 for the purpose of so destroying
 Penguins as aforesaid, and shall
 be convicted of the offence it
 shall be in the power of the
 Stipendiary Magistrate or in his
 absence of two or more Justices
 of

3 That the Ordinance
 shall be deemed
 Forfeiture of
 Boat to be taken
 to be taken

of the Peace to order in addition to such Fine as aforesaid that the boat or vessel and its contents shall be forfeited to the Crown.

Ordinance to be
part of Summary
Jurisdiction
Ordinance No 11.
1853.

3. That this Ordinance be deemed and taken to be for every intent and purpose as much a part of the Summary Jurisdiction Ordinance No 11. 1853. as if incorporated therein.

Commencement
of Ordinance.

4. Whereas the delay incident to a previous communication with Her Majesty to know Her Royal pleasure hereupon would be productive of serious inconvenience. Be it therefore enacted that this Ordinance shall take effect and come into operation from the day of the passing thereof.

An Ordinance for the Naturalization
 of a ~~native Person~~ ^{Man} (James Anderson)
 in the Falkland Islands.

In the year. 1866.

Nº 2.

- Clause. 1. James Anderson a Dane
 to be Naturalized
- " 2. Ordinance to commence
 when Her Majesty's pleasure
 is known.

By His Excellency James George
 Mackenzie, Captain in the Royal
 Navy Governor and Commander-
 in-Chief of the Falkland Islands
 and the Dependencies thereof, with
 the advice and consent of the
 Legislative Council thereof: he
 it enacted:—

1. That James Anderson a native of Denmark shall be to all intents and purposes whatsoever in the Falkland Islands and their Dependencies, deemed and taken to be and to have been from the first day of January one thousand eight hundred and sixty six a natural born subject of Her Majesty as if the said James Anderson had been born within the Realm of England.

James Anderson
a Dane to be
naturalized

2. That this Ordinance shall take effect and come into operation upon the day of the date and publication of any proclamation to be made
and

Ordinance to
commence when
Her Majesty's
pleasure is known

and published by the Governor
for the time being which shall
make known and signify to
the inhabitants of the Falklands
and their Dependencies Her
Majesty's final assent and
approbation hereof.

Government Office.
Falkland Islands.
April. 17th 1866.

No. 39.

Sir.

By His Excellency's direction
I have the honour to forward
the Ordinances Nos 1 and 2 of
1866 which passed the Legislative
Council yesterday in order that
they may be enrolled and recorded
in the Magistrates Court.

I have the honour to be

Yours obedient Servant

A. Byng.

Clerk to the Councils.

ward J. Griffith Esqre
Spendiary Magistrate.

Stanley.