NEW SOUTH WALES UNDER GOVERNOR BRISBANE, 1821-1825

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ABBREVIATIONS

ADB	Australian Dictionary of Biography. 2 vols., Melbourne, 1966 and 1967.
AONSW	Archives Office of New South Wales, Sydney.
BM	British Museum, London.
BT	Bonwick Transcripts, Mitchell Library, Sydney. References give box and page number.
Bigge, New South Wales	J.T.Bigge, Report of the Commissioner of Inquiry into the State of the Colony of New South Wales. P.P., 1822, Vol.XX, p.539 and facsimile edition Adelaide, 1966.
Bigge, Judicial Report	J.T.Bigge, Report of the Commissioner of Inquiry on the Judicial Establishments of New South Wales and Van Diemen's Land. P.P., 1823, Vol.X, p.515 and facsimile edition Adelaide, 1966.
Bigge, Agriculture and Trade	J.T.Bigge, Report of the Commissioner of Inquiry into the State of Agriculture and Trade in the Colony of New South Wales. P.P., 1823, Vol.X, p.607 and facsimile edition Adelaide, 1971.
1828 Census	1828 Census of New South Wales HO 10/21-27. Transcript copies are held at the Mitchell Library, Sydney and at the Society of Australian Genealogists, Sydney.
CO	Colonial Office Papers, Public Record Office, London.
Colonial Returns	Returns of the Colony of New South Wales, AONSW 4/251-4/253.

CS	New South Wales Colonial Secretary's Papers, Archives Office of New South Wales, Sydney.
CS-SB	Colonial Secretary's Papers - Special Bundles.
CSIL	Colonial Secretary In Letters.
CSOL	Colonial Secretary Out Letters.
DNB	Dictionary of National Biography. London, 1886.
GA Ardgowan	Glasgow City Archives, Glasgow. Ardgowan Estate Papers. References give box numbers.
HO	Home Office Papers, Public Record Office, London.
HRA	Historical Records of Australia. Sydney, 1917-1922. References give series and volume number.
JRAHS	Journal of the Royal Australian Historical Society, Sydney.
ML	Mitchell Library, Sydney.
MLG	Mitchell Library, Glasgow.
Mitchell, Journal	J.Mitchell, Journal of a Voyage to New South Wales...7 April 1822 - 11 May 1823, University of Edinburgh Library.
NLA	National Library of Australia
P.D.	Parliamentary Debates (Great Britain)
P.P.	Parliamentary Papers (Great Britain)
PRO	Public Record Office, London.
Ritchie, Bigge - Oral Evidence	J.Ritchie, The Evidence to the Bigge Reports. Vol.1. Melbourne, 1971.
Ritchie, Bigge - Written Evidence.	J.Ritchie, The Evidence to the Bigge Reports. Vol.2. Melbourne, 1971.
S.G.	Sydney Gazette and New South Wales Advertiser.

SGIL	Surveyor-General In Letters, Archives Office of New South Wales, Sydney.
SGOL	Surveyor-General Out Letters.
T	Treasury Papers, Public Record Office, London.
UCMSS	Uncatalogued Manuscripts.
WO	War Office Papers, Public Record Office, London.

INTRODUCTION

Sir Thomas Brisbane's short and comparatively peaceful years as governor of New South Wales (1821-1825) are generally shadowed by the long and vigorous government of Lachlan Macquarie (1810-1821) and the more turbulent developments under Ralph Darling (1825-1831).[1] The period has not attracted a major study though there have been some brief assessments of its characteristics.

The most influential comments have been those of Brisbane's contemporary, the Reverend John Dunmore Lang. In An Historical and Statistical Account of New South Wales (1834 and later editions), Lang offered what has become the traditional assessment of Brisbane and his government. Brisbane was a well-intentioned and liberal man who lacked the inclination to deal with the practical business of government, thereby encouraging his subordinates to make decisions for him. Brisbane's failure as governor was a result of personal inadequacies - the absence of any "decision of character". Lang discussed social and economic changes and considered that the political incidents at the close of Brisbane's government, though inconsistent with the rest of his administration, were important. Nevertheless, his conclusion was that Brisbane made no lasting contribution to New South Wales.[2]

Frederick Watson in his introduction to Volume XI of Historical Records of Australia, Series 1 in 1917 accepted

1. e.g. J.J.Auchmuty, "1810-1830", in F.K.Crowley (ed.), A New History of Australia (Melbourne, 1974), p.79.
2. J.D.Lang, An Historical and Statistical Account of New South Wales (2 vols., London, 1834), Vol.1, pp.148-179.

Lang's characterization of Brisbane but rescued his achievements as governor from the void into which Lang had consigned them. Watson considered that the Brisbane period was

> probably one of the momentous epochs in the history of the Australian colonies. During the four years of his government the foundations of the modern fabric of civil life were laid. 3

To highlight the documents in his collection, Watson noted Brisbane's land, convict and economic policies and the administrative, judicial and legislative changes of the period, many of which were introduced by the Colonial Office following the Bigge reports. He considered that Brisbane's policies could have been successful but they were not properly implemented by his officials. Watson recognized the destructive effect of the personal conflicts which permeated Brisbane's government. Watson concluded that Brisbane, by his ready acceptance of the new legislative council, was more suited to be the constitutional governor of a self-governing colony.[4]

C.M.H.Clark devoted two chapters to the Brisbane period in A History of Australia, Volume 2 (1968). His vivid characterizations of the major personalities were both the strength and weakness of his work as they oversimplified the conflicts. The governor appeared as a minor figure beside the stronger personalities of Marsden and Macarthur. Clark reinforced the traditional view of Brisbane as a naïve and weak administrator, absorbed in his astronomy and detached

3. F.Watson, "Introduction - Sir Thomas Brisbane", Historical Records of Australia, Series 1 (26 vols., Sydney, 1914-1925), Volume XI, p.vii. (Hereafter HRA i,XI,vii)
4. Ibid., pp.vii-xxvi.

from the world he governed. Brisbane was "a Christian, a scholar and a gentleman" but was vain and eager for flattery.[5] Clark glossed over the serious administrative implications of relations between Brisbane and his colonial secretary and he did not discuss the governor's policies. The controversies involving Douglass and Marsden were briefly narrated for their impact as scandal, as they were at the time, without analysis of their deeper relevance to colonial affairs. Clark's interest in W.C.Wentworth did not extend to an assessment of his activities at Brisbane's departure nor their contribution in establishing Wentworth's political career.[6]

Aside from general interest in the background of a governor who was the most distinguished man yet sent to govern New South Wales, emphasis on Brisbane's character and failings increase the relevance of biographical studies. Most information has been drawn from Reminiscences of General Sir Thomas Makdougall Brisbane compiled by his friend, the Reverend William Tasker, just before Brisbane's death in 1860. Tasker concentrated on Brisbane's eventful military career and his scientific achievements and the superficial chapter on New South Wales indicated that Brisbane's short period as a colonial governor was of minor importance in his long and distinguished life.[7]

Later biographical accounts, such as J.D.Heydon's article in the Australian Dictionary of Biography, Volume 1 (1968) and

5. C.M.H.Clark, A History of Australia (Melbourne, 1968), Vol.2, pp.21-23.
6. Ibid., pp.21-60.
7. (W.Tasker, ed.), Reminiscences of General Sir Thomas Makdougall Brisbane (Edinburgh, 1860), pp.43-60.

Ruth Teale's pamphlet, Thomas Brisbane (1971) in the Oxford Great Australians series, relied on Tasker, Lang and Watson. References to private papers widened their perspective but both accounts were brief, preventing detailed analysis. Heydon discussed Brisbane's land and convict policies, changes to the economy and his "cautious liberalism" toward press censorship and trial by jury. Though dismissing Brisbane's critics, such as Lang, as misleading, Heydon concluded that a stronger man might have handled the colonists more successfully.[8] Ruth Teale's account was a biographical narrative but she noted Brisbane's policies and conflicts.[9]

Biographies of other figures from the Brisbane period are few but some include relevant comments on Brisbane and his government. C.H.Currey in his study of the first chief justice, Sir Francis Forbes, traced the legislative and judicial changes in the 1823 New South Wales Act and unravelled the details of the Douglass controversies and the Almorah incident, relating them to the wider context of colonial conflicts. Forbes's confidential, though not uncritical, friendship with Brisbane provided a valuable commentary on the governor's problems. Currey supported Forbes's view that Brisbane was ill-suited to the daily business of government though his policies benefited the colony but analysis of these policies was beyond the scope of Currey's study.[10] A.T.Yarwood's biography, Samuel Marsden. The Great Survivor (1977), discussed Marsden's contribution to the "tone" of the period, lightly

8. J.D.Heydon, "Sir Thomas Makdougall Brisbane", Australian Dictionary of Biography (Melbourne, 1968), Vol.1, pp.151-155. (Hereafter ADB, Vol.1)
9. R.Teale, Thomas Brisbane (Melbourne, 1971), pp.1-29.
10. C.H.Currey, Sir Francis Forbes (Sydney, 1968), pp.21-168.

touching on administrative and social issues such as the convict system, agriculture and Aborigines where these coincided with Marsden's activities.[11]

In more thematic studies, some historians have noted aspects of the Brisbane period. A.C.V.Melbourne's pioneer work, Early Constitutional Development in Australia (1934), discussed the context of executive government and legislative changes during the Brisbane period with passing comments on their relevance to the governor's problems.[12] R.B.Madgwick's Immigration into Eastern Australia 1788-1851 (1937), though acknowledging the increased migration in the early 1820s, concentrated on later developments.[13] In his History of Australian Land Settlement (1924), S.H.Roberts briefly considered the theoretical implications of land policy under Brisbane but did not include more specific analysis.[14] The outlines of the convict system have been traced by A.G.L.Shaw in Convicts and the Colonies (1966).[15] The most detailed attention has been given to economic matters. B.Fitzpatrick in British Imperialism and Australia 1783-1833 (1939) discussed land and immigration policies and both he and S.J.Butlin in Foundations of the Australian Monetary System 1788-1851 (1953) clarified the machinery of Brisbane's dollar system but were hindered from further assessment of its economic significance

11. A.T.Yarwood, Samuel Marsden. The Great Survivor (Melbourne, 1977), pp.228-250.
12. A.C.V.Melbourne, Early Constitutional Development in Australia (1934 and St Lucia, 1972), pp.88-132.
13. R.B.Madgwick, Immigration into Eastern Australia 1788-1851 (1937 and Sydney, 1969), pp.47-53.
14. S.H.Roberts, History of Australian Land Settlement (1924 and Melbourne, 1968), pp.38-39.
15. A.G.L.Shaw, Convicts and the Colonies (1966 and Melbourne, 1977), pp.189-194.

by lack of statistical material.[16]

These studies have isolated various aspects of the period but the picture of New South Wales at this time is fragmented. An integrated account of these aspects would establish their influence and relevance in colonial affairs. This thesis is neither a biography of Brisbane nor a comprehensive survey of colonial life during his government. It offers an assessment of New South Wales during 1821 to 1825, concentrating on developments in which Brisbane had a significant role. It explores the relationships between the governor, the settlers and the Colonial Office at administrative, social and political levels. The views of the Colonial Office, the impact of legislative changes, the role of the governor and the structure of colonial administration are examined. Detailed investigation of convict, land and economic policies provides a more specific analysis of colonial government. Social tensions and changes in the colonial population, intrigues and political ambitions reveal the aspirations of the settlers. The result is an evaluation of Brisbane's work as governor and of the nature of the colony during his administration.

16. B.Fitzpatrick, British Imperialism and Australia 1783-1833 (1939 and Sydney, 1971), pp.293-303,325-343; S.J.Butlin, Foundations of the Australian Monetary System 1788-1851 (1953 and Sydney, 1968), pp.143-189.

Chapter 1 - The Imperial View.

The defeat of Napoleon in 1815 ended two decades of war which had absorbed the resources of all Europe. In Britain the Tory administration of Lord Liverpool, formed in 1812, remained in power until 1827. Although there were major changes within the cabinet in 1822, the office of third secretary of state was held throughout by one man, Henry, third Earl Bathurst.

The office of third secretary for war and colonies had emerged during the French wars. In 1794 a secretary of state for war had been appointed and in 1801 colonial affairs were transferred from the Home Office to the War Office, probably in the interests of military strategy. Colonial administration involved supervision and co-ordination of a variety of government departments which had officials in the colonies.[1]

In 1812 Earl Bathurst became secretary of state for war and colonies. He was a capable administrator who had held posts at the Admiralty, the Treasury and the Board of Trade. He made little impression on most of his contemporaries but within political circles he was respected and influential. A close friend of the prime minister and himself considered as a possible prime minister, Bathurst was a prominent advocate of conservative interests in the cabinet and he had little in common with the younger moderate Tories who dominated the cabinet after 1822.[2] His under-secretary from

1. J.C.Beaglehole, "The Colonial Office 1782-1854", Historical Studies, 1 (1941), pp.175-176.
2. N.D.McLachlan, "Bathurst at the Colonial Office 1812-1827: A Reconnaissance", Historical Studies, 13 (1969), pp.477-502; D.M.Young, The Colonial Office in the Early Nineteenth Century (London, 1961), pp.17-19,50-51; W.R. Brock, Lord Liverpool and Liberal Toryism 1820-1827 (London, 1967), p.48,73-74; "Bathurst", ADB, Vol.1.

1812 until 1821 was Henry Goulburn who at twenty-eight already had two years' experience as under-secretary at the Home Office. Goulburn was a skilled administrator and during the war he dealt with the routine colonial business, leaving Bathurst to concentrate on more important questions.[3] Opinions on the relative importance of the work of Bathurst and Goulburn vary, but their partnership virtually "created" the Colonial Office.[4]

With the end of hostilities, the Colonial Office was reduced and most peace-time military affairs reverted to the service departments.[5] The third secretary of state was now free to concentrate on colonial affairs but in 1816 and 1817 there were calls from parliament to abolish his office because the war had ended and the office was now an unnecessary expense. Goulburn argued that the large number of colonies, many a direct result of the war, required a specialised department. It would be bad government and poor economy to overload the Home Office with colonial affairs.[6] The survival of the office of the third secretary of state rested specifically on its claim as a colonial department and opened a period of deeper involvement in colonial affairs.[7]

At the close of the Napoleonic wars, Great Britain administered thirty-three overseas settlements. The nature of its control varied. Some of the older colonies in the

3. J.Ritchie, Punishment and Profit (Melbourne, 1970), pp.11-13.
4. H.T.Manning, British Colonial Government After the American Revolution (Hamden, 1966), pp.481-484; McLachlan, op.cit., pp.477-478.
5. Manning, op.cit., pp.477-478.
6. P.D., 1st series, 1816, Vol.33, cols.892-922; Ibid., 1817, Vol.36, cols.51-82.
7. McLachlan, op.cit., pp.481-483; Manning, op.cit., pp.478-480; Beaglehole, op.cit., p.179.

West Indies and Canada had been settled in the seventeenth and eighteenth centuries and had local legislatures and administrations for their internal government. The fortunes of war had added colonies such as the Cape of Good Hope and Trinidad which had previously been administered by other nations and had distinctive local civil and legal traditions. Many of the Mediterranean and African settlements were principally military outposts maintained for strategic reasons. New South Wales and Van Diemen's Land were penal settlements.[8]

In managing the affairs of such a variety of settlements, the Colonial Offce was restricted by the involvement of other government departments such as the Foreign Office, the Home Office, the Treasury, the Board of Trade and various military and legal departments who had their own representatives in the colonies. Although the Colonial Office co-ordinated their activities, it had little control over their affairs.[9] By the mid-1820s, the Treasury wished to control all colonial matters related to finance but Bathurst's political status enabled him to maintain the independence of the Colonial Office against this pressure.[10] With the exception of slavery, colonial affairs were rarely a matter of political controversy and cabinet left their management very much to the discretion of Bathurst.[11] Outside the government, sustained interest in colonial matters was confined to missionaries, commercial

8. Young, op.cit., pp.246-247.
9. Ibid., pp.170-171.
10. J.J.Eddy, Britain and the Australian Colonies 1818-1831 (Oxford,1969), p.155; Young, op.cit., pp.187-188.
11. Young, op.cit., p.170,174-176.

groups or representatives from specific colonies.[12]

Decisions on colonial policy were made by Bathurst based on information from the colony, balanced with the opinions of interested people and the attitudes of other sectors of the British government. The man responsible for carrying out these policies was the colonial governor, the local representative of the British government. The Colonial Office relied on his observations and reports to inform it of local conditions and problems. His tactful handling of the colonists could enhance the reputation and efficiency of the colonial government or his quarrels could destroy the relevance of policies drawn up thousands of miles away.

There was no routine procedure for the selection of a colonial governor.[13] The secretary of state for the colonies was responsible for the appointment but Bathurst consulted interested parties and those with a claim to his patronage before making his decision.[14] If the appointment was in a politically sensitive region, members of cabinet or the commander-in-chief of the army might be consulted.[15]

Colonial governors were often chosen from aristocratic families in financial difficulties who had patronage in government circles[16] or senior military officers whose service pay could be used to subsidize the governor's salary.[17] The salaries varied from as little as £1,000 p.a. to £10,000 p.a.,

12. Eddy, op.cit., p.7.
13. P.Knaplund, James Stephen and the British Colonial System 1813-1847 (Madison, 1953), p.45.
14. McLachlan, op.cit., p.502.
15. Young, op.cit., p.200.
16. e.g. the Duke of Richmond, Bathurst's brother-in-law, was appointed governor-general of Canada in 1818. McLachlan, op.cit., p.500.
17. Young, op.cit., p.177.

depending on the importance of the colony, the prestige of the appointee and the amount that could be provided from local revenues to supplement the salary paid by the British government.[18] Positions in Jamaica and Canada were prestigious appointments.[19] The length of a governor's service was not specified until 1828 when his term was limited to six years.[20] Some governors, particularly in the West Indies, held office for as long as twenty years.[21]

Freed from the responsibilities of war, the Colonial Office over the next decade adapted its internal structure to the specialised demands of colonial affairs. Goulburn left the office in 1821 to become chief secretary to the lord-lieutenant of Ireland. His successor, chosen by Bathurst and himself, was Robert Wilmot-Horton, a man of similar age to Goulburn but without his administrative experience. Wilmot-Horton was ambitious, energetic and intellectual and Bathurst allowed him to take the initiative in making substantial changes within the Colonial Office.[22] More formal routines were introduced. From late 1822 clerks were assigned to specific colonial areas and as the amount of work increased in the 1820s their specialised knowledge was important in dealing with routine affairs. Incoming correspondence was registered then distributed to the relevant department where routine replies were drafted or

18. Manning, op.cit., p.187. In 1816, the governor of the Isle de France received £10,000 p.a. P.P., 1816, Vol.XIII,p.322. In 1821, the salary of the governor of Newfoundland was £1,000 p.a. Ibid., 1821, Vol.XVI,p.17.
19. Knaplund, op.cit., p.45.
20. Murray to Darling, 31 May 1828, HRA i,XIV,218-219.
21. e.g. the Duke of Manchester was governor of Jamaica from 1808 to 1827, McLachlan, op.cit., p.481,fn.25; Admiral Sir Charles Brisbane was governor of St Vincent from 1808-1829, DNB.
22. Young, op.cit., p.49,52-53; McLachlan, op.cit., pp.495-497; H.T.Manning, The Revolt of French Canada 1800-1835 (London, 1962), pp.245-247.

additional information assembled for Bathurst and the under-secretary, who would minute their directions for replies.[23] In March 1822 each colony was ordered to prepare annually comprehensive statistics, the Blue Books, so that the Colonial Office would be kept informed on the state of the colony.[24]

In 1825 the first permanent under-secretary was appointed. Robert Hay had spent twelve years at the Admiralty and the Victualling Board before coming to the Colonial Office. Colonial affairs were divided between the two under-secretaries. Wilmot-Horton dealt with the North American and West Indian colonies and represented the Colonial Office in the House of Commons while Hay was responsible for the Mediterranean, African, Asian and Australian settlements.[25] As early as 1813 the Colonial Office had employed James Stephen as a part-time legal consultant to assess colonial legislation. With the increased impetus of the Colonial Office in the 1820s, Wilmot-Horton referred more work to Stephen and in 1825 Stephen was given a permanent appointment, eventually succeeding Hay as permanent under-secretary.[26]

Bathurst disliked the interference of parliament in administrative matters[27] but his attitude became increasingly unrealistic as the post-war campaign against slavery drew

23. Young, op.cit., pp.47-83.
24. Ibid., pp.34-35
25. Bathurst to Brisbane, 6 July 1825 with encl., HRA i,X1,688-689; Young, op.cit., p.84; "R.Hay", ADB, Vol.1.
26. Young, op.cit., pp.58-59,80.
27. Ibid., p.178.

colonial affairs constantly before parliament. Furthermore, the opposition seized on reports of colonial mismanagement to criticize the government, citing expensive colonial administrations as unacceptable in a time of economic reductions.[28] Wilmot-Horton, on the other hand, believed in stimulating a constructive parliamentary interest in colonial affairs.[29] The demand from parliament for information from the Colonial Office increased from fourteen papers of 246 pages in 1816 to thirty-six papers with 2,200 pages in 1825.[30]

In the post-war decade, the amount of Colonial Office correspondence nearly doubled. A significant proportion concerned general inquiries about colonial affairs[31] but when divided among specific colonies, the Australian colonies required the greatest clerical attention. In 1816, eleven per cent of correspondence was sent to New South Wales or Van Diemen's Land; by 1824 this had climbed to twenty-two per cent. In both years this was a significantly larger proportion than for any other colony. Incoming mail from the Australian colonies also increased, from eight per cent in 1816 to thirteen per cent in 1824.[32] The large amount of correspondence with the Australian colonies in part indicated the attention required by a colony with a small local government but much of it was routine paperwork inseparable from the convict system. Restructuring the colonial government did not reduce the amount of administration from Britain.[33]

28. Young, op.cit., pp.177-178,36.
29. Ibid., p.178.
30. Ibid., Appendix V111, p.284.
31. Ibid., Appendix V111, p.283.
32. Ibid., pp.282-283.
33. Eddy, op.cit., p.95.

Isolated by distance and war, the penal colonies had attracted little interest in Britain but when post-war problems led to a surging crime rate and increased transportation, serious attention was given to the efficiency of the penal settlements. The high proportion of former convicts in their populations gave the Australian settlements a poor reputation. Bathurst regarded New South Wales as "a rascally community"[34] and his personal interest lay with the more sensitive regions of the West Indies and the Mediterranean. Wilmot-Horton was deeply interested in emigration but it was Canada rather than the Australian colonies which drew his attention.[35] Nevertheless Bathurst had a thorough knowledge of colonial affairs and visitors from New South Wales were surprized by the depth of his perception.[36]

As befitted a penal settlement, the administrative, legal and economic structures of New South Wales were designed for convicts and military personnel. The Colonial Office believed that an autocratic system was the most efficient way to control such unruly elements[37] but this was increasingly unacceptable to the rural and mercantile communities which grew up in the shadow of the gaol. Retired officials and soldiers, free settlers, colonial born youths and former convicts alike resented the absolute authority of the governor and their rebellion against Governor Bligh in 1808 indicated that they would no longer be easily controlled.[38]

Bligh's successor, Lieutenant-Colonel Lachlan Macquarie

34. Quoted in McLachlan, op.cit., p.485.
35. Ibid.; Young, op.cit., p.244.
36. McLachlan, op.cit., p.491; Field to Marsden, 28 June 1824, Marsden Papers ML A1992.
37. M.Phillips, A Colonial Autocracy (1909 and Sydney, 1971), p.292.
38. P.D., 1st series, 1819, Vol.39,col.1134.

was a career soldier with considerable administrative and colonial experience. A stern, patriarchal figure, he was governor of New South Wales for twelve years. In that period, the population trebled from 10,452 in 1810 to 29,783 in 1821, mainly due to the large number of convicts who arrived after 1815. In 1810 only fourteen per cent of the population were convicts. By 1821, the proportion had reached forty-one per cent.[39]

Macquarie accepted the function of New South Wales as a gaol and settlement for former convicts. He had little sympathy for free men who would not accept this situation.[40] Macquarie's management of the convicts provoked complaints. His policy of issuing pardons and tickets of leave to allow convicts to work for themselves drew accusations that transportation was not a punishment. He aroused further antagonism by encouraging former convicts, placing a few in official positions and inviting them to government house. Though the per capita costs fell, the British Treasury objected to the overall increase in expenses, an inevitable factor with greater numbers of convicts to support. Nor was the British government certain that Macquarie was enforcing economy measures.[41] Settlers complained that they were unable to obtain skilled convict labour because of the government's public works programme and these complaints implied that they were able to support more convicts than Macquarie allowed them.[42]

The efficiency of transportation as a punishment had been

39. A.Hewison, The Macquarie Decade (Melbourne, 1972), p.9.
40. B.H.Fletcher, Landed Enterprise and Penal Society (Sydney, 1976), pp.128-129.
41. J.Ritchie, "John Thomas Bigge and His Reports on New South Wales", JRAHS, 60 (1974), pp.15-18.
42. Fletcher, op.cit., pp.161-162; Hewison, op.cit., pp.61-101.

discussed before New South Wales was settled and it continued to interest the prison and criminal law reformers in Britain. In 1812 a parliamentary inquiry into penitentiaries and transportation recommended changes to the administrative system in New South Wales but the Colonial Office did not implement its suggestions.[43] In 1816 during discussions for the abolition of the office of the third secretary of state, New South Wales was specifically mentioned as a settlement which could be more properly managed by the Home Office which was responsible for convicts.[44]

In the post-war years, the member of parliament who most frequently brought transportation before the House of Commons was Henry Grey Bennet, the radical member for Shrewsbury. In April 1816, he moved for a committee to enquire into police and the state of crime and a few days later he criticized the expense of the penal settlement at Botany Bay and its failure to reform convicts.[45] In March 1817, Bennet presented a petition from the Reverend Benjamin Vale complaining of Macquarie's misuse of his authority.[46]

Bennet's attack combined the expensive mismanagement of the convict system and the autocratic behaviour of the governor, two elements calculated to stir opposition to the government in parliament. In addition, the Treasury had been pressing for a greater reduction in colonial expenses while the Home Office had serious doubts as to whether convicts were treated with sufficient severity and the Transport Office was concerned

43. A.C.V.Melbourne, Early Constitutional Development in Australia (1934 and St Lucia, 1972), pp.48-52.
44. P.D., 1st series, 1816, Vol.33, col.904.
45. Ibid., cols.888-892,987-988.
46. Hewison, op.cit., pp.135-141.

about irregularities in their transfer to the colony.[47] In response to this mounting pressure, in late April 1817, Bathurst suggested an inquiry into New South Wales to Lord Sidmouth at the Home Office. His suggestion was accepted but a commissioner was not selected until seventeen months later.[48]

Macquarie had long since wearied of the quarrels and ingratitude of the colonists and his officials and the criticism from the British government. In December 1817, he sent a letter of resignation to Bathurst which reached the Colonial Office in July 1818.[49] If the inquiry was to take place, it was essential that Macquarie be there to present his case. One colonial observer believed that since the Colonial Office had sanctioned Macquarie's government for so long, it was obliged to support the governor in the inquiry.[50]

About the time that Macquarie's resignation arrived in London, J.T.Bigge returned from four successful years as chief justice in Trinidad. He was welcomed at the Colonial Office and consulted on various matters. By August 1818, there were rumours of changes in New South Wales and that Macquarie would be replaced. The following month, Bigge was chosen as the commissioner of inquiry.[51] In October 1818, Bathurst wrote a conciliatory letter to Macquarie, declining to accept his resignation until the governor had reconsidered.[52] This letter disappeared in transit.[53]

47. J.Ritchie, "The Colonial Office, New South Wales and the Bigge Reports 1815-1822", A.N.U.Historical Journal, October 1967, pp.29-30.
48. Ibid., pp.30-32; P.D., 1st series, 1819, Vol.39, col.1137.
49. Macquarie to Bathurst, 1 December 1817, HRA i,1X,495. This was sent by the Harriet. Other despatches by this ship were acknowledged in July and August 1818, e.g. ibid., p.493,543.
50. Jones to Marsden, 16 July 1819, quoted in Ritchie, "The Colonial Office",p.32
51. Ritchie, Punishment and Profit, p.51,53; M.H.Ellis, Lachlan Macquarie (1947 and Penrith, 1972),p.457.
52. Bathurst to Macquarie, 18 October 1818, HRA i,1X,838-840.
53. Ellis, op.cit., p.465.

The inquiry into New South Wales was the first of a series of colonial investigations in the 1820s.[54] It was not limited to the problems of Macquarie's government but was to consider the options for colonial development. The primary objective was an assessment of the cost of transportation in relation to its efficiency as a deterrent to crime. A secondary consideration was the social and economic relationship between the penal activities and the growing free community.[55]

In formulating the instructions for Bigge, the Colonial Office clearly intimated that if Macquarie had made mistakes, much was attributable to a system that had not kept pace with changing conditions.[56] The commission of inquiry foreshadowed changes but it also gave the Colonial Office an acceptable respite from dealing with the problems in New South Wales. It had asked valuable and sensitive questions but further action must be delayed until Bigge had reported.[57]

Bigge was given his commission and instructions in early January 1819. He was to rank second in importance to the governor with a salary substantially larger than Macquarie's.[58] Macquarie initially welcomed the investigation, believing that it would validate the measures of his administration but he and Bigge soon clashed over the governor's appointment of a former convict, Dr William Redfern, as a magistrate. Relations between the two men deteriorated rapidly. Bigge was critical

54. Ritchie, Punishment and Profit, pp.60-61.
55. Ibid., pp.61-65.
56. Ibid., p.100.
57. Ibid., p.64; Eddy, op.cit., p.30.
58. Bathurst to Macquarie, 30 January 1819, HRA i,X,2-11. Macquarie's salary was £2,000 p.a., ibid., p.579. Bigge's salary was £3,000 p.a., Ritchie, Punishment and Profit, p.57.

of aspects of Macquarie's administration and the governor resented the advice of a man with less colonial experience than himself. In February 1820, five months after Bigge's arrival, Macquarie repeated his wish to retire from the arduous job as governor of New South Wales.[59]

Bigge's appointment had not silenced parliamentary criticism since the emphasis of the attack was the British rather than the colonial situation. In mid-1818, Bennet again called attention to the problems of unemployment and crime.[60] He intensified his attack on transportation in publications such as his Letter to Viscount Sidmouth...on the Transportation Laws,the state of the Hulks and of the Colonies in New South Wales in January 1819. When parliamentary inquiries into gaols and criminal laws during 1819 produced no action from the government, Bennet renewed his attack, this time more specifically at the Colonial Office. In A Letter to Earl Bathurst...on the Conditions of the Colonies of New South Wales and Vandieman's Land in June 1820, Bennet examined the constitutional and social structure of the colony and condemned the British government for neglect of the settlement since its foundation. A decision had to be made whether New South Wales was to be a gaol or a colony. Bennet favoured the latter but argued that the decision could not wait until Bigge had reported.[61]

Macquarie's letter of resignation arrived during Bennet's renewed demand for positive action by the government on the state of the colony. Bathurst accepted Macquarie's resignation in

59. Fletcher, op.cit., p.168; Macquarie to Bathurst, 29 February 1829, HRA i,X,291-292.
60. Ritchie, Punishment and Profit, pp.69-70.
61. Ibid., pp.71-90; H.G.Bennet, A Letter to Earl Bathurst...on the Conditions of the Colonies of New South Wales and Vandieman's Land as set forth in the Evidence taken before the Prison Committee in 1819 (London, 1820), p.3,24,115.

July 1820.[62] There was no immediate announcement of his successor and it was not until four months later that Major-General Sir Thomas Brisbane was named as the next governor of New South Wales.

Brisbane, like Macquarie, was a Scottish career soldier. He was forty-seven years old when he became governor, having been born on 23 July 1773 at Brisbane House, Largs in Ayrshire. The Brisbane family had been major landowners in south-western Scotland since the fourteenth century and was related to many of the gentry and aristocratic families of the Scottish lowlands. His father, Captain Thomas Brisbane, had served at Culloden and Gibraltar and was a respected classical scholar.[63] The family was well represented in the naval and military ranks.[64] His aunt, Darcy, was a friend of Wesley and a prominent member of Scottish ecclesiastical circles.[65] His cousin, Helen, was hostess of one of the most prominent intellectual and social circles in Edinburgh.[66] Napier, the discoverer of logarithms, was claimed as a worthy ancestor.[67] Brisbane fitted well into the family tradition, gaining fame as a soldier and as an astronomer.

Brisbane's mother was Eleanor Bruce, the eldest daughter of Sir Michael Bruce of Stenhouse near Stirling, a family which

62. Bathurst to Macquarie, 15 July 1820, HRA i,X,314-315.
63. (W.Tasker, ed.), Reminiscences of General Sir Thomas Makdougall Brisbane (Edinburgh, 1860), pp.1-5; University of Glasgow, Matriculation Album, 1733.
64. His uncles and cousins included Admiral John Brisbane, Captain Stuart Brisbane, R.N., Rear Admiral Sir Charles Brisbane, Commodore Sir James Brisbane, DNB; W.Fraser, Family Tree of the Brisbanes of Bishopton and the Makdougalls of Makerstoun (Edinburgh, 1840).
65. A younger sister of his father, Darcy Brisbane married Sir Walter Maxwell. M.P.Hack, Faithful Service. Sketches of Christian Women (London, 1885), pp.7-47; J.Lancaster, The Life of Darcy, Lady Maxwell (London, 1826).
66. Helen Cranstoun, daughter of Mary Brisbane and the Hon. George Cranstoun, married Professor Dugald Stewart. Fraser, op.cit.; "D.Stewart", DNB.
67. J.Service, Thir Notandums...to which is appended a Biographical Sketch of James Dunlop (Edinburgh, 1890), p.219. The Napiers were a connection of Brisbane's mother's family. Royal Commission on the Ancient Monuments of Scotland, Stirlingshire (2 vols., Edinburgh, 1963), Vol.1, p.13.

traced its lineage to King Robert the Bruce.[68] Unlike the Brisbanes, the Bruces were a financially dynamic family. The Carron Ironworks, the first and largest iron-smelting plant in Scotland, was built on their land.[69] Eleanor's brothers were wealthy men. Sir William Bruce owned extensive properties in Scotland and a sugar plantation in Tobago.[70] Patrick Craufurd Bruce had made a fortune in India and on his return to Britain became a partner in a leading Scottish bank, Bruce Simpson and Company, invested in land and mercantile concerns and entered parliament.[71] His wise management of his sister's investments made Eleanor Brisbane financially independent of her husband, to the extent that she invested £30,000 in her husband's estate, strictly as a business arrangement.[72]

Patrick Bruce had favoured a career in the East India Company for his nephew[73] but Captain Brisbane purchased his son an ensign's commission when Thomas was only nine years old. Brisbane went directly from school to the army when he was seventeen and with the outbreak of the French wars three years later, Thomas Brisbane embarked on his active military career.[74] His advancement was by purchase. The rank of lieutenant-colonel was the highest rank open to purchase and his family was anxious that he attain it before the war ended.[75] The financial

68. Family Tree of Eleanor Bruce, Brisbane Papers ML MSS 1191/3X.
69. R.H.Campbell, Carron Company (Edinburgh, 1961), p.32,42,205-206; Royal Commission on Ancient Monuments, op.cit., Vol.1, p.237.
70. W.Bruce to Capt.Brisbane, 11 December 1788, Brisbane Papers MLG B 1V; Brisbane to Stewart, - November 1812, Brisbane Papers GA Ardgowan 541.
71. I.Bruce, The Nun of Lebanon (London, 1951), pp.34-37; I.Bruce, Lavallette Bruce (London, 1953), p.18,37,71,86,239,271,319; S.G.Checkland, Scottish Banking. A History 1695-1973 (Glasgow, 1975), p.287,290; P.C.Bruce was the member for Evesham in 1802, Rye in 1806 and Dundalk in 1807. Great Britain and Ireland Parliament, Return of Members of Parliament 1801-1874 (4 vols., London, 1878).
72. P.Bruce to Capt.Brisbane, 4 May 1788, Brisbane Papers MLG Box 2,X11; W.Bruce to M.Shaw-Stewart, 21 October 1812, Brisbane Papers GA Ardgowan 541.
73. P.Bruce to Capt.Brisbane, 4 May 1788, Brisbane Papers MLG Box 2,X11.
74. Sir T.Brisbane, Military Record, WO 25/744, B.Pt.2, No.48; Tasker, op.cit., pp.7-36.
75.M.Brisbane to T.Brisbane, 15 March 1800, Brisbane Papers MLG A111.

investment in Brisbane's military career was substantial. In ten years his family spent £9,140, including £2,500 for the lieutenant-colonelcy of the 69th Regiment in 1799.[76] Brisbane enjoyed military life but his family was disconcerted by his apparent lack of ambition or interest in exertions on his behalf.[77]

Brisbane's military career was active with service in a brigade of the line in Flanders and six years in the West Indies. His regiment was recalled from Jamaica in 1802 and ordered to India but a recurring liver complaint excluded Brisbane from further service in the tropics. Unable to exchange regiments, he was forced to go on half-pay in 1805.[78] An application for European service in 1808 was unsuccessful[79] and it was not until 1811 that he secured a staff appointment as deputy adjutant-general of the Kent region.[80]

Brisbane spent the years on half-pay mainly in Scotland where he helped manage his father's estate, about 10,000 acres of grazing land, and, as the largest resident proprietor, became involved in local affairs.[81] He also developed his interest in astronomy. After a near disastrous crossing to the West Indies in 1795, Brisbane had read widely about navigation and nautical astronomy and acquired some instruments which accompanied him on all his campaigns.[82] He had no formal

76. Account encl. in Brisbane to Stewart, 19 November 1812, Brisbane Papers GA Ardgowan 541.
77. E.Brisbane to Capt.Brisbane, 22 May (1795?), Brisbane Papers MLG B.1V; (E.Brisbane?) to Capt.Brisbane, 30 May 1795, ibid., Box 10, XL1V (2).
78. Tasker, op.cit., pp.8-22.
79. Brisbane to Gordon, 17 July 1808, Brisbane Papers MLG Box 26, AXX.
80. W.Bruce to Brisbane, 8 August 1811, ibid., Box 32, B.1.
81. J.Sinclair, The Statistical Account of Scotland (Edinburgh, 1796), Vol.17, pp.503-505; E.Brisbane to Brisbane, 27 May 1809, Brisbane Papers MLG Box 23, A.1.; Various papers on parish affairs, roads, bridges in ibid., Box 3, X1V (3).
82. A.Bryson, "Memorial of General Sir Thomas Makdougall Brisbane", Trans. Royal Society of Edinburgh, 22 (1861), pp.590-593; Account for equipment, Adams to Brisbane, 15 June 1798, Brisbane Papers, Munro Collection, Tin Trunk.

training in astronomy or mathematics and his knowledge was acquired from books, sailors and academic friends.[83] While on half-pay, he was probably an occasional member of the distinguished circle that gathered around his cousin and her husband, Professor Dugald Stewart, a famous lecturer in philosophy, mathematics and astronomy at the University of Edinburgh.[84] In 1808 Brisbane built a stone observatory at Brisbane House which he equipped with specially designed instruments, clocks and books.[85] He corresponded with several prominent astronomers and scientists and in 1810 was elected a member of the Royal Society of London.[86]

During this period, his relations with his family, particularly the Bruces, went through a series of crises at the root of which was Brisbane's financial dependence on his family. His father was very old and his affairs were managed by a trust dominated by the Bruce family. This restricted the heir to virtually a life tenant, thereby conserving the estate from subdivision.[87] Brisbane resented

83. Tasker and Brisbane's obituaries mention that he studied mathematics and astronomy at the University of Edinburgh and at an academy in Kensington. The University of Edinburgh has no record of Brisbane as a student, except for attendence at a chemistry class in 1800. No classes in practical astronomy were held at the university between 1785 and 1828. J.B.Morrell, "The University of Edinburgh in the late Eighteenth Century: Its Scientific Eminence and Academic Structure", ISIS, 62 (1971), p.162,166. The academy at Kensington in London was a boarding school for boys run by the Reverend Dr Robert Thomson. Brisbane, his brother and cousin were pupils at the school. Thomson to Capt.Brisbane, 17 December 1787, Brisbane Papers MLG Box 2, X11. The accounts for subjects that the Brisbane brothers studied did not include astronomy. Ibid. Furthermore, Brisbane was not interested in astronomy until 1795, six years after he left the academy. Information supplied by the University of Edinburgh and the Royal Borough of Kensington and Chelsea Central Library, London.
84. "D.Stewart", DNB.
85. Bryson, op.cit., p.593; List of astronomical equipment May 1809 - April 1810, Brisbane Papers MLG Box 23, A.1.
86. Gillespie to Brisbane, 13 June 1807, Brisbane Papers Munro Collection, Tin Trunk, Box 3; Lockhart to Brisbane, 4 May 1810, ibid.; Maskelyne to Brisbane, 5 February 1810, Brisbane Papers MLG Box 32, B.V.
87. G.E.Mingay, English Landed Society in the Eighteenth Century (London, 1963), pp.32-34,48-49; C.Clay,"Marriage, Inheritance and the Rise of Large Estates in England, 1660-1815", Economic History Review, 2nd series, 21 (1968), pp.503-518.

these limitations.[88] He had spent most of his adult life abroad, living on his regimental pay, and received no allowance as heir.[89] Now reduced to half-pay, Brisbane had the additional expenses of a gentleman of leisure. Forced to find alternative sources of funds, Brisbane borrowed on the expectation of his inheritance. Between 1803, when he returned permanently to Britain, and 1809 Brisbane borrowed at least £15,000.[90]

Brisbane's family was shocked to learn of some of these debts in 1809.[91] The money had probably paid for winter seasons in London, good wines, expensive astronomical equipment and the interest payments on earlier loans.[92] When the debts were revealed, his family wanted him to live elsewhere so that the estate could be leased, suggested that he marry and encouraged him to re-enter the army.[93] His family was relieved when Brisbane received his staff appointment in 1811.[94]

Back in the army, Brisbane longed for active service and in November 1812 he was promoted to brigadier-general on the staff in the Peninsula under his old comrade, the Duke of Wellington.[95] He was given his choice of a frontline brigade and the next two years were the most successful of his military career. He received the thanks of parliament

88. He tried to break the entail on the estate in 1808. T.Brisbane to M.Brisbane, 30 November 1808, Brisbane Papers GA Ardgowan 542.
89. P.Bruce to E.Brisbane, 18 October 1801, Brisbane Papers MLG Box 10, XL11 (1).
90. Statement of loans arranged for T.Brisbane by H.Crawford 1807-1828, Brisbane Papers GA Ardgowan 238; Various loan agreements, ibid., Ardgowan 331; Account with R.Stewart, 1807-1809, Brisbane Papers MLG Box 32, B.V.; Brisbane to H.Crawford, 8 January 1805, Brisbane Papers GA Ardgowan 331.
91. W.Bruce to M.Shaw-Stewart, 21 October 1812, Brisbane Papers GA Ardgowan 541.
92. There was no suggestion that Brisbane gambled his additional funds. Various accounts for payment, Brisbane Papers MLG and Ardgowan. Brisbane to Stewart, 19 November 1812 with encl., Brisbane Papers GA Ardgowan 541.
93. Memo of a meeting at Brisbane, 25 September 1809, Brisbane Papers MLG A.1.; W.Bruce to Brisbane, 6 May 1811, ibid., Box 17, LXV11; Stewart to Brisbane, 25 July 1811, ibid., Box 32, B.1; E.Brisbane to T.Brisbane, 29 July 1811, Brisbane Papers Munro Collection, loose papers.
94. W.Bruce to T.Brisbane, 8 August 1811, Brisbane Papers MLG Box 32, B.1.
95. Brisbane to Stewart, 19 November 1812, Brisbane Papers GA Ardgowan 541.

for his action at Orthez, was mentioned in despatches for bravery at Toulouse and was created a Knight Commander of the Bath in 1814 when the order was opened to the Peninsular generals. In the same year, Brisbane was ordered to Canada to command a brigade of veterans in the war against the United States. He returned to France with the army of occupation in 1815 and remained there until the allied forces were withdrawn at the close of 1818.[96]

Brisbane was highly regarded as a soldier. Wellington considered him one of the best major-generals in his army.[97] A brave offensive commander, his brigade was always in the forefront of action. His military reputation was enhanced by his astronomical interests. When at sea, he navigated with precision and his accurate time-keeping, based on observations of the sun, led Wellington to order that Brisbane's tables of the sun's altitudes be printed for the use of the army. During the French occupation, Wellington ordered Brisbane to draw up comparative French and British weights to assist the distribution of rations.[98] Brisbane had been able to prevent the destruction of the Academie des Sciences in Paris and he was elected an honorary member in gratitude. He meet several eminent French scientists, stimulating and widening his interests in astronomy.[99]

A year after his return from France, Brisbane married a distant cousin and heiress, Anna Maria Makdougall of Makerstoun near Kelso. His marriage reconciled him with his relations as

96. Tasker, op.cit., pp.22-30; P.D., 1st series, 1814, Vol.27, cols.354-355. For Brisbane's military activities in Canada, see the Brisbane Papers, William Clements Library, University of Michigan.
97. Wellington to Bathurst, 30 October 1814, quoted in Historic Manuscripts Commission, Report on the Manuscripts of Earl Bathurst (London, 1923),p.302.
98. Tasker, op.cit., p.33,43; Bryson, op.cit., pp.595-598.
99. Brisbane to Crawford, 10 March 1816, Brisbane Papers GA Ardgowan 333; J.Forbes to the Duke of Argyll, 21 November 1860, J.Forbes Papers, St Andrews University Library MS Deposit 7, LB V1/144; Bruce, Lavallette Bruce, p.155.

they had favoured the match for nearly twenty years and the generous settlements from his father-in-law assisted his financial situation.[100] A few months later, Brisbane and his wife moved to Ireland where Brisbane held a post on the military staff.[101] Shortly after, Brisbane learnt that he had been appointed governor of New South Wales.

The news was welcome. Brisbane had been soliciting the position as governor or military commander in New South Wales for several years. The origin of this ambition is not clear though perhaps the idea was planted by his aide-de-camp in Spain, Captain John Ovens, who had been in New South Wales for a short time with Macquarie.[102] Brisbane's earliest known request for the position was drafted on his return voyage from Canada in June 1815. In it, he stated that he wished to carry out astronomical observations in the colony.[103] When he arrived in France, Brisbane applied unsuccessfully to the Horse Guards and the Colonial Office.[104] Brisbane was more determined to go to New South Wales after he had discussed his theories with his new scientific acquaintances in Paris and even considered chartering a ship to go to the southern hemisphere in a private capacity if he was unable to obtain an official position.[105] There had been few observations of the southern skies. The similar latitudes of Sydney and Cape Town, where observations had been taken in 1750-1751, promised useful readings to

100. Glasgow Herald, 22 November 1819. Lady Brisbane's maternal grandmother, Helen Brisbane, was Brisbane's paternal aunt. Makdougall Family Tree, Brisbane Papers ML MSS 1191/3X; Fraser, op.cit.; P.Bruce to E.Brisbane, 18 October 1801, Brisbane Papers MLG Box 10, XL11 (1); Brisbane to P.Bruce, 28 September 1819, Brisbane Papers ML UCMSS 329.
101. Calvert to Brisbane, 29 February 1820, Brisbane Papers ML MSS 1191/2.
102. "J.Ovens". ADB, Vol.2.
103. Brisbane to H.R.H. (the Duke of York?), 8 June 1815, Brisbane Papers ML UCMSS 419, Part 1.
104. Brisbane to Calvert, 6 September 1815, Brisbane Papers ML MSS 1191/1; Bathurst to Brisbane, 24 November 1815, Brisbane Papers ML FM4/1626, Section 4.
105. Brisbane to Calvert, 6 September 1815, Brisbane Papers ML MSS 1191/1; M.Bruce to Mrs Bruce, 17 November 1815, quoted in Bruce, Lavallette Bruce,p.155; Brisbane, Notes on the Figure of the Earth, n.d., Brisbane Papers ML UCMSS 419,Pt.1

measure variations in longitude. Furthermore, Sydney was at the antipodes, diametrically polar to the observatory at Greenwich, and it was hoped that observations could be made to compute the figure of the earth.[106]

The sudden end of two decades of war against France in 1814 meant that most soldiers had to return to civilian occupations. Although the American war, Bonaparte's escape and the army of occupation delayed the problem for four years, it was apparent that life in a greatly reduced peace-time army would offer few opportunities for promotion or action. For Brisbane, it was not simply a matter of returning home. His father had died in 1812 but the settlement of the estate took several years. The debts were large and confused, including £20,000 of Brisbane's debts charged against his father's estate. Brisbane bitterly resented the investigations of his private affairs which were necessary to settle the debts. By the end of the war, he had mellowed a little. About half of the land had been sold and he now accepted his family's advice that his continued absence abroad and leasing the estate were his only financial salvation.[107] However, life in occupied France was more expensive than war-torn Spain, especially since there was leisure for extended visits to Paris and the purchase of astronomical equipment in anticipation of an appointment in New South Wales.[108]

Brisbane was attracted by the financial advantages of a

106. Stratford to the President of the Royal Society, 11 November 1828, Royal Society, London DM4/67.
107. Brisbane to Crawford, 25 June 1816, Brisbane Papers GA Ardgowan 233.
108. Brisbane to Crawford, 21 May (1816?), 26 June 1816, 27 September 1817, ibid.; Brisbane to Murray, 29 October 1817, Murray Papers National Library of Scotland, 46.7.7, Vol.145, ff.147-148.

colonial appointment.[109] The salary of the governor of New South Wales was £ 2,000 p.a., financially one of the lowest posting but equivalent to the salary of the lieutenant-governor of Upper Canada or Nova Scotia or the governor of Sierra Leone.[110] Brisbane's financial needs and personal preferences could be united in one place. He intended to take his vice-regal duties seriously and constantly asserted that he would not neglect his duty for his astronomical pursuits.[111] His knowledge of colonial life and vice-regal responsibilities was limited to the West Indies where he had been stationed for several years and where his cousin, Sir Charles Brisbane, was governor of St Vincent.[112]

Despite a negative reply from the Colonial Office in 1815, Brisbane was confident that he would replace Macquarie. In June 1816, he believed that both the Duke of York and Bathurst supported his application but Macquarie remained governor.[113] Brisbane was widely considered as the probable successor to Macquarie and with each new report of opposition to Macquarie and rumours of his recall, the hopes of Brisbane and his friends soared.[114]

109. Brisbane to Crawford, 25 June, 15 July 1816, Brisbane Papers GA Ardgowan 233. Brisbane's successor, Darling, believed that Brisbane was not interested in the financial aspects of his appointment. Darling to Wilmot-Horton, (2?) December 1824, CO 201/155,f.379. This has been accepted by H.King in "Pulling Strings at the Colonial Office", JRAHS, 61 (1975), p.146. However, contemporary observers noted that Brisbane was not very wealthy. J.Macarthur jr to J.Macarthur, 1 June 1821, Macarthur Papers ML A2911; (?) to Wollstonecraft, n.d. (1821?), Berry Papers ML UCMSS 315/18.

110. P.P., 1821, Vol.XV1,pp.15-19. Brisbane was soon aware of the inadequacy of the salary. Brisbane to Craufurd, 14 February 1822, Brisbane Papers PRO PMG1/1.

111. e.g. Brisbane to H.R.H.(the Duke of York?), 8 June 1815, Brisbane Papers ML UCMSS 419, Part 1.

112. Brisbane was fond of his cousin who spent part of his leave with him in 1811 and 1816. E.Brisbane to T.Brisbane, 15 May 1811, Brisbane Papers MLG Box 32,B.1; Brisbane to Crawford, 24 September 1816, Brisbane Papers GA Ardgowan 233.

113. Brisbane to Crawford, 25 June 1816, Brisbane Papers GA Ardgowan 233.

114. Campbell to Brisbane, 27 September 1818, Brisbane Papers ML FM4/1612, Section 11.

The colonists followed these rumours with interest. In December 1816, John Macarthur noted that there was considerable support for Brisbane as Macquarie's successor. He was a very distinguished officer of the highest character and was supported by the Duke of York.[115] In December 1817, a Parisian newspaper reported the rumour that Brisbane had been appointed governor of New South Wales.[116] In late 1818, there were articles in the London press announcing that Brisbane would replace Macquarie but William Charles Wentworth believed that the reports had been inserted by Brisbane's friends and had no foundation.[117]

A colonial governorship was rarely obtained without an influential patron. Brisbane confided his desire to go to New South Wales to his friend and commander, the Duke of Wellington, when he returned from Canada. Wellington was a close and influential friend of Bathurst who was responsible for the selection of colonial governors and a number of his generals received colonial appointments. Between 1815 and 1820, Wellington consistently praised Brisbane's ability and conscientious work as a military commander and denied suggestions from the Colonial Office that Brisbane was too fond of astronomy and would not devote his full attention to the civil government of the colony.[118]

Brisbane had solicited the support of the commander-in-chief, the Duke of York, in 1815. When the governorship

115. J.Macarthur to (E.Macarthur?), 16 December 1818, quoted in S.M.Onslow, Some Early Records of the Macarthurs of Camden (1914 and Adelaide, 1973),p.279.
116. Brisbane to Crawford, 17 December 1817, Brisbane Papers GA Ardgowan 233.
117. W.Wentworth to D.Wentworth, 10 November 1818, Wentworth Papers ML A756.
118. Wellington to Brisbane, 6 (December?) 1819, Brisbane Papers ML UCMSS 419, Part 2; Tasker, op.cit., p.43; Bryson, op.cit., p.598.

became vacant in 1820, the Duke of York suggested Brisbane when he was approached by the Colonial Office to name a suitable applicant.[119] The veteran patron of New South Wales was Sir Joseph Banks. Brisbane was acquainted with Banks through the Royal Society and enlisted his support. Banks favoured Brisbane as Macquarie's successor because, as a scientist, Brisbane could encourage useful investigations. Furthermore, if reforms were intended, Brisbane would be available for briefing before he left for the colony.[120]

News of Macquarie's resignation reached Brisbane in Ireland in mid-1820 and he wrote to Bathurst presenting himself as a suitable successor.[121] Bathurst did not reply immediately but marked the letter "put by". Although there were other applicants in 1816 no others were mentioned in 1820. Perhaps the post was ill-favoured because of the parliamentary attacks and the commission of inquiry. John Macarthur considered that it was a difficult and ill-paid government.[122] Bathurst made the usual inquiries to men with protegees and Brisbane's name was put forward by two influential patrons, the Dukes of York and Wellington.

Brisbane's ambitions had been known at the Colonial Office for five years, during which time there had been ample opportunity, given the criticism and the length of Macquarie's government, to consider his replacement. Its continued support

119. Taylor to H.Goulburn, 6 November 1820, postscript, CO 201/100,f.53.
120. Banks to Brisbane, letter fragment, n.d. (1820?), ML DOC 1967.
121. Brisbane to Bathurst, 5 (?) 1820, CO 201/99,f.316. The month is barely decipherable. M.Phillips, A Colonial Autocracy, p.284 and King, "Pulling Strings at the Colonial Office", p.163,fn.4 date the letter 5 August 1820. Watson in his introduction to HRA i,X1,xi dated the letter as 5 October 1820.
122. J.Macarthur to (E.Macarthur?), 16 December 1816, quoted in Onslow, op.cit., p.279; J.Macarthur to J.Macarthur jr, 20 February 1820, ibid., pp.339-340.

of Macquarie and hesitancy in naming his successor suggested that the Colonial Office was still satisfied with Macquarie and an alternative governor with a greater likelihood of success was not available. Bathurst's lack of enthusiasm for Brisbane's application probably reflected a lingering fear of Brisbane's preoccupation with astronomy but the decision on Macquarie's successor could not be delayed indefinitely. In November 1820, Bathurst informed Brisbane that he had been appointed governor of New South Wales and was to leave as soon as possible.[123]

Although Brisbane lacked administrative experience, he was probably as well-qualified as many who were seeking colonial appointments in the post-war years.[124] Brisbane's family background was suitably respectable and through his family, his military career and his scientific pursuits he had a wide range of friends from both political parties. Among leading Tories, his friends included Wellington, Lord Rosslyn, the Tory Whip in the House of Lords,[125] his neighbour Major-General James Montgomerie, the Tory member for Ayrshire, [126] and Archibald Campbell of Blytheswood, the Tory member for Glasgow.[127]

Within the more immediate circle of relatives and personal friends, Brisbane was allied with the Whigs.[128] His uncle, P.C.Bruce had been a Whig member of parliament and his bank had

123. Bathurst to Brisbane, 3 November 1820, CO 202/9,p.127.
124. Manning, British Colonial Government, pp.101-102.
125. Brisbane to (?), 31 July 1825, Brisbane Papers ML FM4/1626, Section 1. "James St Clair Erskine, Earl of Rosslyn", DNB.
126. Brisbane acted as Montgomerie's second in a duel over the Ayrshire election results in 1811. Various letters, Brisbane Papers MLG Box 17, LXV11; H.E.Smith, The Parliaments of England from 1715 to 1847 (Chichester, 1973), p.619 ff.
127. Campbell to Wilmot-Horton, 15 July 1822, CO 201/111,f.144; Smith, op.cit., p.648 ff.
128. Brisbane's four trustees had all become Whig parliamentarians by 1832. They were Sir Michael Shaw-Stewart, Sir John Maxwell, William Blair and Robert Wallace. S.G., 20 October 1825; Smith, op.cit., p.619,649,670 ff.

been favoured by the liberal commercial groups of Edinburgh.[129] His cousin's soirées in Edinburgh were dominated by liberal interests.[130] Michael Bruce, his cousin and confidant, was a Whig sympathiser and included among his friends Sir James Mackintosh and Henry Grey Bennet, two members of parliament deeply interested in criminal law reform.[131] Brisbane's friend and relative, W.P.Craufurd at the Paymaster's Department of the War Office, was also a friend of Bennet and Bigge.[132] Other close friends were General Sir Ronald Craufurd Ferguson, the reforming Whig member for Kirkaldy,[133] Sir John Maxwell of Pollock, member for Renfrewshire, whose Whiggish sympathies were almost radical[134] and David Steuart Erskine, eleventh Earl of Buchan, an eccentric but one of the leading Scottish Whigs.[135]

The Colonial Office was aware that Brisbane had a number of influential friends among the parliamentary opposition[136] and perhaps the consideration that Brisbane would be an acceptable choice to the government's critics decided Bathurst in Brisbane's favour. The news of Brisbane's appointment was well-received. Bennet approved of the choice[137] and the missionaries, merchants and settlers who called on the new governor before his departure were impressed. John Macarthur

129. Checkland, op.cit., pp.284-287; Smith, op.cit., p.347.
130. "D.Stewart", DNB.
131. Bruce, Lavallette Bruce, pp.xi,254; Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329.
132. Brisbane to Craufurd, 14 September 1822, Brisbane Papers PRO PMG1/1; (Craufurd ?) to Brisbane, 3 January 1825, Brisbane Papers ML FM4/1626, Section 1
133. Brisbane to Bruce, 1 November 1825, Brisbane Papers ML UCMSS 329; M.Stenton, Who's Who of British Members of Parliament (2 vols., England, 1976), Vol.1 "Ferguson".; "R.Ferguson", DNB.
134. Brisbane to (?), 31 July 1825, Brisbane Papers ML FM4/1626, Section 1; Stenton, op.cit., Vol.1 "Maxwell"; Smith, op.cit., p.670 ff.
135. Buchan to Brisbane, 24 February 1824, Brisbane Papers ML Ab58/10; S.Shapin, "Property, Patronage and the Politics of Science: The Foundation of the Royal Society of Edinburgh", British Journal for the History of Science, 7 (1974), pp.15-16,27.
136. H.Goulburn to Wilmot-Horton, 20 November 1824, Catton Papers, Derby.
137. J.Macarthur jr to J.Macarthur, 1 June 1821, Macarthur Papers ML A2911.

junior was introduced to Brisbane by his brother who had served under him and considered that the new governor was the most talented and experienced man yet sent to the colony.[138] News of Brisbane's appointment reached New South Wales in May 1821.[139] At a meeting in October 1821, Sir John Jamison informed the colonists of Brisbane's background and praised his "many virtues".[140]

There was some disappointment that Bigge had not been chosen as Macquarie's successor.[141] There had been rumours that Bigge had been issued with a commission as governor in case Macquarie was offended by his inquiry and surrendered his government,[142] yet it was unlikely that the Colonial Office would jeopardize the inquiry by appointing the commissioner as the new governor. Even after Brisbane's appointment, the belief persisted for a number of years that Bigge would eventually become governor.[143]

The Colonial Office hoped to send Brisbane to New South Wales as soon as possible but it was six months before he left. In the weeks he spent in London, Brisbane was given little information about his duties and was discouraged from asking questions. It was repeatedly stressed that everything must await the commissioner's report.[144] Brisbane missed

138. Wilberforce to Marsden, 22 March 1822, Marsden Papers ML A1992; Pratt to Marsden, 11 March (?), ibid., A1994; J.Macarthur jr to J.Macarthur, 1 June 1821, Macarthur Papers ML A2911.
139. Jamison to Piper, 24 May 1821, Piper Papers ML A254.
140. G.W.D.Allen, Early Georgian. Extracts from the Journal of George Allen 1800-1877 (Sydney, 1958), p.68.
141. Marsden to Bigge, 29 January 1822, ML BT Box 27, p.6693; Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.13.
142. W.Wentworth to D.Wentworth, 24 November 1819, Wentworth Papers ML A756; Ritchie, Punishment and Profit, pp.101-102,fn.186.
143. R.Murray to D.Wentworth, 14 April 1822, Wentworth Papers ML A754; Buchanan to Bowman, 12 February 1824, Buchanan Papers Vol.2, Macarthur Collection ML A4267.
144. J.Macarthur jr to J.Macarthur, 1 June 1821, Macarthur Papers ML A2911.

meeting Bigge by two months. The new governor left for the colony in May 1821 and Bigge returned to Britain in July.[145]

Although Bigge made a number of immediate suggestions, it was not until the following May that he completed his first report on the suitability of New South Wales as a penal settlement.[146] Transportation would be effective if changes were made to ensure discipline through systematic punishment. The more hardened convicts should be segregated in isolated penal stations along the coastline where escape would be difficult. The more tractable convicts should be available to free settlers to clear forest land and assist in agricultural and pastoral activities. An increase in respectable settlers with capital would provide greater opportunities for convict employment and reduce government costs.[147] In his two further reports, Bigge reinforced these conclusions, stressing the economic potential if a fine wool industry was encouraged.

Bigge's reports indicated that changes were necessary in the administrative and judicial structures to make the colony more acceptable for free settlers but his recommendations on the convict system reassured the Home Office that transportation could be a viable and effective deterrent to crime. The suggestions to integrate the free settlement with convict punishment showed the Treasury that the costs of the settlement could be reduced whilst still maintaining its original purpose. The reports, so long awaited, aroused little interest in

145. R.Crawford to H.Crawford, 18 May 1821, Brisbane Papers GA Ardgowan 295; Ritchie, Punishment and Profit, p.209.
146. Ritchie, Punishment and Profit, pp.208-216.
147. J.T.Bigge, Report of the Commissioner of Inquiry into the State of the Colony of New South Wales (1822 and facsimilie edition, Adelaide, 1966), p.155,161,163.

parliament though the resulting legislation, the New South Wales Act of 1823, attracted more comment. In presenting the new legislation, Wilmot-Horton noted that the Act treated New South Wales as a colony rather than a prison[148] but the Transportation of Offenders Bill of 1824, which simplified the Transportation Act, emphasized that transportation to New South Wales would be a real punishment.[149]

Bigge's reports and the New South Wales Act were accompanied by changes within the Colonial Office to improve its management of the colony. One of the new appointments was a colonial agent for New South Wales. There had been suggestions for such a position for several years and Brisbane had hoped that his friend W.P.Craufurd would be appointed.[150] John Macarthur junior was also interested but believed that the position would be given to Edward Barnard, a senior clerk in the Colonial Office.[151] Bigge endorsed Barnard, who had also been nominated by several settlers, and Bathurst confirmed the appointment in September 1822 with a salary of £600.[152] His duties were to liaise between the settlers and the Colonial Office, settling accounts, providing information and handling the affairs of persons dying intestate in the colony.[153] Barnard had worked for seventeen years at the Colonial Office so was familiar with the colony's affairs and his views were

148. P.D., 2nd series, 1823, Vol.9, cols.1400-1405.
149. Ibid., 1824, Vol.11, cols.1092-1093.
150. Melbourne, op.cit., p.31; H.Goulburn to Brisbane, 31 January 1821, CO 201/9,p.134.
151. J.Macarthur jr to J.Macarthur, 1 June 1821, Macarthur Papers ML A2911.
152. Bigge to Wilmot-Horton, 31 August 1822, ML BT Box 27, p.6703; Bathurst to Brisbane, 1 September 1822 with encl., HRA i,X,728-729.
153. Bathurst to Brisbane, 1 September 1822 with encl., HRA i,X,729; Bathurst to Brisbane, 31 July 1823, HRA i,X1,95-96.

respected by Bathurst.[154]

In mid-1824, the Colonial Office began a systematic revision of the outdated instructions to its governors.[155] There had been problems in drafting the New South Wales Act without revoking the existing instructions and when Stephen reviewed them in March 1825 very little was still applicable.[156] His alterations drew on the experiences of other colonies such as the Cape of Good Hope, Mauritius, Ceylon and Canada. This trend toward common procedures was also apparent in the formulation of land policies.[157]

A governor's relationship with the Colonial Office was a critical part of his government. Officially, he communicated through public despatches but it was not unusual for a colonial governor to correspond privately with an official at the Colonial Office.[158] Such contact provided both the governor and the Colonial Office with confidential information which might be indiscreet in despatches that could be demanded by parliament.[159]

Although the Colonial Office was careful to distinguish between public and private correspondence from the colonies and cautioned governors to make the same distinctions,[160]

154. Ritchie, Punishment and Profit, pp.14-15.
155. Wilmot-Horton to Stephen, 31 July 1824, CO 324/145, f.18; Young, op. cit., p.73.
156. Stephen to Arthur, 18 August 1823, Arthur Papers ML A2164; Stephen to Wilmot-Horton, 27 March 1825, HRA iv,1,592.
157. Stephen to Wilmot-Horton, 27 March 1825, HRA iv,1,591-612. After the formation of the Australian Agricultural Company in 1824, a similar ~~chartered~~ chartered company was formed for Canada in 1825. Bathurst to Brisbane, 31 July 1824, HRA i,X1,305; P.D., 2nd series, 1825, Vol.12, col.1033 ff. See also Chapter 5.
158. e.g. the correspondence of Governor Prevost in Canada with the Colonial Office clerk Adam Gordon. Manning, The Revolt of French Canada, p.103, 267-268; Young, op.cit., pp.56-57.
159. Bathurst to Brisbane, 23 August 1824, Bathurst Papers BM Loan 57/64, pp.26-27.
160. McLachlan, op.cit., p.501; Brisbane to Wilmot-Horton, 30 July 1824, HRA i,X1,337.

Wilmot-Horton had no hesitation in accepting regular, detailed private reports from colonial officials. Francis Forbes, the new chief justice in New South Wales, had worked closely with Wilmot-Horton and in his personal correspondence with the under-secretary he commented not only on personal and legal affairs but constitutional and political issues as well.[161] James Stephen discussed Brisbane's administration in his private correspondence with the lieutenant-governor in Van Diemen's Land.[162] Brisbane's successor, Darling, corresponded privately with the colonial under-secretary, Robert Hay.[163]

Brisbane was not a good correspondent and changes to the Colonial Office staff in 1821 and 1822 removed Henry Goulburn and Edward Barnard, the two officials with whom he was slightly acquainted. Brisbane did not know Wilmot-Horton and was never at ease in commenting freely to strangers.[164] Brisbane's private letters to the Colonial Office were few and generally reserved about his government and policies. In part his reticence in both his public and private correspondence was an excessive modesty about referring to his personal role in his administration.[165] He hoped that the Colonial Office would hear praise of his measures from other sources.[166] In correspondence with personal friends, Brisbane discussed his policies in considerable detail and his more influential friends

161. Forbes/Wilmot-Horton correspondence, Catton Papers, Derby; Forbes Papers ML A1819 copied from correspondence in the Colonial Office files.
162. Stephen to Arthur, 31 July 1824, 4 January 1825, Arthur Papers ML A2164.
163. e.g. in HRA i,XII and CO 323/146; Young, op.cit., pp.86-87.
164. Brisbane to Wilmot-Horton, 24 March 1825, HRA i,XI,557.
165. Brisbane to Wilmot-Horton, 12 August 1824, ibid., p.339; Brisbane to Wilmot-Horton, 31 January 1825, Catton Papers, Derby.
166. Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UC MSS 329; Brisbane to Wilmot-Horton, 31 January 1825, Catton Papers, Derby.

such as the Duke of Wellington and Major-General Sir George Murray, sent copies of these letters to the Colonial Office.[167]

More seriously, Brisbane's reticence in his communications with the Colonial Office was a deliberate attempt to conceal information until he could report his policies as unqualified successes.[168] Brisbane refused to send partial results to the Colonial Office, believing that it was "prudent to wait... until the whole is settled into fixed habits".[169] Brisbane's silence was foolhardy. The Colonial Office had a right to be fully informed of events in the colony. Lacking information from the governor, it was forced to turn to alternative sources. Predictably, those most ready to comment were those who objected to the colonial government's policies.[170]

The future of New South Wales as a gaol or as a colony had been resolved by Bigge's integration of the two views but old attitudes continued. For Bathurst, its foundation as a gaol[171] influenced the nature of the colony. Even after Bigge's reports had been accepted, Bathurst insisted that New South Wales must exist primarily as a gaol:

> The great error which his predecessor fell into was to consider the settlement as a colony, and not as a place of punishment and reform. I am afraid that Sir Thomas may be led into the same error....I am aware that it has made such advances as a colony, that it has grown to have the interest, and has a claim therefore to the protection as a colony; but this must be a secondary consideration. 172

167. Bathurst to Murray, 11 November 1822, Bathurst Papers BM Loan 57/64, pp.13-17; Wellington to Bathurst, 19 October 1823, ibid., 57/14, p.1732.
168. Brisbane to Craufurd, 8 April 1823, Brisbane Papers PRO PMG1/1.
169. Brisbane to Craufurd, 1 May 1823, ibid.
170. Forbes to Wilmot-Horton, 29 June 1825, Catton Papers, Derby.
171. Though see G.Martin (ed.), The Founding of Australia. The Arguments About Australia's Origins (Sydney, 1978).
172. Bathurst to Murray, 11 November 1822, Bathurst Papers BM Loan 57/64, pp.13-14.

For Wilmot-Horton, less familiar with the nature of the settlement and passionately interested in emigration, it was more natural to consider New South Wales as a colony and to encourage settlers with capital and schemes for land development which relied on the initiative of the colonist, leaving the support of the convicts to the forces of a free market.[173]

Such diverging attitudes at the centre of colonial management emphasized the administrative burden for a colonial government which was required to govern New South Wales successfully as a gaol and as a colony.

173. Wilmot-Horton to Douglass, 16 November 1824, CO 202/13, pp.40-68.

Chapter 2 - The Government of New South Wales Under Sir Thomas Brisbane.

The governor of New South Wales dominated the local administration. His commission empowered him to appoint officials, control commerce, alienate land, maintain law and order and exercise the royal prerogative of mercy. Supplementary instructions detailed the use of convict labour and land alienation.[1] Authoritative command was considered essential in a penal settlement and the style of government which emerged was paternalistic and autocratic. Unlike other British colonies, the governor did not have a council to advise him in legislative or administrative affairs nor to restrict his personal authority[2] and the distance from London increased his discretionary power.

Macquarie, confident of his ability to govern the settlement in its best interests, was pleased that the Colonial Office ignored the suggestion of the 1812 parliamentary committee on New South Wales that the governor should have the assistance of a council.[3] Brisbane lacked Macquarie's experience and confidence. He was concerned that he had been placed in an "unparalleled situation" without sufficient legal advisers or confidential assistants. He attributed many of his problems to these circumstances.[4]

1. Commissions and Instructions of the governors of New South Wales, Governor Phillip, 12 October 1786, 2,25 April 1787, HRA i,1,1-16; Governor Macquarie, 8,9 May 1809, HRA i,V11,183-197; Governor Brisbane, 3,5 February 1821, HRA i,X,589-603.
2. M.Wight, The Development of the Legislative Council 1606-1945 (London, 1946), p.43.
3. A.C.V.Melbourne, Early Constitutional Development in Australia (1934 and St Lucia, 1972), pp.31-32,49-51.
4. Brisbane to Bruce, 20 May 1825, Brisbane Papers ML FM4/1626, Section 1.

No legislative arrangements had been made when the settlement was founded. When matters needed regulation the governor issued proclamations. These were local and immediate answers to specific problems but they became the legislative framework for the settlement. The governors attempted to frame their orders within the spirit of the laws of England and the British government rarely over-ruled their proclamations. With the ~~arrival~~ more regular appointment of trained legal officials from 1809, the governor's authority to legislate by proclamation was questioned.[5] In 1819 the Colonial Office found that the governor's proclamations which imposed taxes were illegal. An act of parliament provided temporary sanction but the validity of other proclamations was doubtful and clarification of the legislative power was necessary.[6]

Bigge did not recommend a legislative council because he doubted the ability of the colonists to work together with any unanimity.[7] During the drafting of the New South Wales Bill in May-June 1823, Stephen, Wilmot-Horton and Bathurst concluded that a legislative and advisory body was necessary to regularize many local details of government.[8] The 1823 Act established a legislative council in New South Wales to advise the governor in the preparation of local laws. The governor retained ultimate control in initiating

5. Melbourne, op.cit., pp.29-33.
6. Ibid., pp.34-36.
7. Bigge to Wilmot-Horton, 26 September 1823, 7 March 1825, Catton Papers, Derby.
8. Melbourne, op.cit., pp.91-92,112-113; C.H.Currey, Sir Francis Forbes (Sydney, 1968), pp.39-41; J.M.Ward, Colonial Self-Government. The British Experience (London, 1976), pp.136-138.

legislation but the newly appointed chief justice was required to declare that the legislation was not repugnant to the law of England. The British government reserved the authority to disallow local legislation.[9]

The members of the first legislative council were five senior officials - the lieutenant-governor, the chief justice, the colonial secretary, the principal surgeon and the surveyor-general.[10] In 1825 the new archdeacon replaced the surveyor-general.[11] The Colonial Office intended to expand the council to include settlers and Brisbane was asked for a list of ten landowners and merchants who would be suitable as non-official members.[12] Brisbane had expected that some colonists would be included in the council.[13] His list of six landowners and four merchants was a judicious selection from among the leading members of the community.[14] It was headed by John Macarthur and named in preferential order W.J.Browne, Robert Campbell senior, J.T.Campbell, William Cox, Edward Riley, Charles Throsby, Sir John Jamison, William Walker and John Campbell.[15] All had considerable financial interests in the colony, most had been residents for several years and the list included critics of Brisbane's administration.[16] Two landowners, John Macarthur and Charles Throsby, and a

9. Melbourne, op.cit., pp.98-99,115-118.
10. Bathurst to Brisbane, 19 January 1824 with encl., HRA i,X1,195-196.
11. Bathurst to Brisbane, 23 December 1824, ibid., pp.424-426.
12. Bathurst to Brisbane, 19 January 1824, ibid., p.195.
13. Brisbane to Bruce, 1 July 1824, Brisbane Papers ML UCMSS 329.
14. Forbes to Wilmot-Horton, 7 November 1824, Catton Papers, Derby; CO Minute, n.d., CO 201/150,f.260.
15. Brisbane to Bathurst, 1 November 1824, HRA i,X1,406.
16. Macarthur and Jamison were Brisbane's most prominent critics but R.Campbell, J.T.Campbell, W.Cox, E.Riley, C.Throsby and W.Walker had all opposed Brisbane's dollar policy. Memorial from the Colonists, n.d., HRA i,X,741-744. See also Chapters 6 and 7.

merchant, Robert Campbell, were chosen by the Colonial Office and the principal surgeon was removed because the council was restricted to a maximum of seven members.[17]

The early activities of the legislative council were restricted by the absence of the lieutenant-governor, Lieutenant Colonel Stewart, who did not arrive until mid-1825. Since the attorney-general was uncertain of the legality of the council without all its members, Brisbane confined its business to matters of urgency and general investigations until Stewart's arrival.[18] Brisbane considered that the delay was beneficial since it allowed information to be assembled for the council's attention but it also meant that certain recommendations in Bigge's reports which required local legislation were not implemented.[19] During the delay the attorney-general was ordered to prepare a digest of colonial laws, orders and proclamations for the council to consolidate.[20] Officials and magistrates, past and present, were asked for their comments on colonial regulations.[21] The review was essential because few magistrates had access to copies of colonial orders, many of which had not been collated since 1813 and 1814.[22]

In the fifteen months of Brisbane's government with the

17. Bathurst to Darling, 14 July 1825, Encl.4, HRA i,X11,22-23.
18. Brisbane to Bathurst, 3 November 1824, HRA i,X1,406-407; Brisbane to Bathurst, 14 May 1825, ibid., pp.571-572; Currey, op.cit., pp.80-81.
19. Brisbane to Bathurst, 14 May 1825, HRA i,X1,572.
20. Brisbane to Wilmot-Horton, 31 January 1825, Catton Papers, Derby; Forbes to Wilmot-Horton, 24 March 1825, HRA iv,1,590.
21. Brisbane to Goulburn, 29 September 1824, Marsden Papers ML A1992.
22. Evidence of D.Macleod, Proceedings of an Inquiry, 10 August 1825, HRA i,X1,752.

legislative council, twenty-three statutes were passed.[23] The first act ensured the legality of Brisbane's most controversial policy, the use of Spanish dollars as legal tender, and was passed only on "the advice of the Major Part of the Council".[24] The legislative record of Brisbane and his council was a serious effort to provide an orderly basis for the colonial administration. It included the regulation of parish registers, postal services, the control of shipping, imprisonment of debtors, registration of deeds and legal documents, orders for convict administration and punishment and two acts of naturalisation.

Brisbane was given no instructions as to how to absorb the council into the existing government structure. Although the governor was responsible for introducing legislation, he was not informed about the type of laws that he could initiate, unlike the governors of other colonies with legislative bodies who had detailed instructions on these subjects.[25] When Brisbane decided on the need for certain legislation, he directed the attorney-general to draft a bill which the governor presented to the council for discussion and reshaping. The altered bill was returned to the governor and if he approved, it was passed and promulgated as law.[26] The act was published in the newspapers and additional copies were distributed to magistrates and other colonial officials.[27] Brisbane, on the advice of the chief justice, left the council

23. New South Wales Legislative Council, Acts, 1824-1825.
24. Brisbane to Bathurst, 3 November 1824, HRA i,X1,408. See Chapter 6.
25. Stephen to Wilmot-Horton, 27 March 1825, HRA iv,1,595-596; Ward, op.cit., p.139. Acts of naturalisation were excluded in Darling's instructions but Brisbane's two acts were not revoked. Darling's Instructions, 17 July 1825, HRA i,X11,112.
26. Forbes to Wilmot-Horton, 6 February 1825, Catton Papers, Derby.
27. Brisbane to Bathurst, 25 June 1825, HRA i,X1,675.

chamber after he had presented the legislation so that his presence would not inhibit discussion.[28]

This procedure relied on the attorney-general to prepare the draft legislation. The position had been created in the 1823 New South Wales Act but Brisbane was disappointed in the first attorney-general, Saxe Bannister, whom he thought a "well-meaning Man, but extremely Weak and easily led astray".[29] In late 1825 Bannister refused to prepare an act of indemnity to protect magistrates against prosecution for illegal punishments because he objected to the legislation.[30] Brisbane responded with some warmth. It was the duty of the attorney-general to put into due form any measure required by the governor, acting on the advice of the council, without comment as to its legality, the responsibility of the chief justice. Any attempt by the attorney-general to influence a measure, such as refusing to draft a bill of which he disapproved, was a serious intrusion on the legislative independence of the governor in council.[31]

Brisbane's relations with the chief justice, Francis Forbes, were more successful. There had been concern that the chief justice's veto power would cause conflict between the governor and the judge.[32] Brisbane and Forbes enjoyed an harmonious working partnership based, Forbes believed, on Brisbane's respect for the independence of the judiciary and an understanding of the limits of his own authority.[33] The

28. Darling to Arthur, 27 January 1826, Arthur Papers ML A2167; Melbourne, op.cit., pp.114-115,156. This practice was discontinued after the 1828 New South Wales Act.
29. Quoted in Darling to Hay, 25 July 1826, HRA i,X11,445; Brisbane to Bruce, - September 1825, Brisbane Papers ML UCMSS 329.
30. See Chapter 7.
31. Brisbane to Bathurst, 11 October 1825, with encls., HRA i,X1,881-887. Brisbane's strong stand against Bannister can be compared with his earlier tolerance of the independence of the colonial secretary. See below.
32. Currey, op.cit., pp.45-46; W.C.Wentworth, A Statistical Account of the British Settlements in Australia (2 vols., London, 1824), Vol.1,p.326.
33. Forbes to Wilmot-Horton, 22 March 1827, HRA iv,1,716-717.

veto power did cause problems in Forbes' relations with Brisbane's successor. Brisbane described Forbes as a man of "inflexible integrity" and welcomed his extensive experience in colonial legal affairs acquired while Forbes was chief justice in Newfoundland.[34]

The legislative council was the first structural restriction on the absolute personal authority of the governor of New South Wales. Brisbane welcomed its assistance and referred to it matters of delicate policy, such as the dollar issue and the indemnity bill as well as less controversial regulations. Although the right to initiate legislation was confined to the governor, Brisbane encouraged general discussion of matters put to the council, a practice which the Sydney Gazette warned would fail if he attempted to please everyone.[35] The governor consulted the magistrates and senior officials about a bill to register deeds and conveyances and presented their views to the council.[36] Similarly, when deciding on action against bushrangers, Brisbane referred the problem to the magistrates and prominent settlers as well as to the council.[37] The result was the formation of a mounted horse patrol by act of council though Bathurst had earlier rejected a similar proposal by the governor.[38] This incident demonstrated that it was possible for the governor to use the council to reinforce his views when they clashed with those of the Colonial Office.[39]

34. Brisbane to Bruce, 17 April 1824, - September 1825, Brisbane Papers ML UCMSS 329; "F.Forbes", ADB, Vol.2.
35. S.G., 16 June 1825.
36. S.G., 4 November 1824; New South Wales Legislative Council, Bills, Finance Bundle 1825-1826, Parliament House Archives, Sydney.
37. Australian, 30 December 1824, 26 May, 15 September 1825.
38. Brisbane to Bathurst, 8 November 1825, with encl., HRA i,X1,897-899; Brisbane to Bathurst, 18 June 1824, ibid., p.283.
39. Ward, op.cit., p.138.

In 1824, the Colonial Office removed the assignment of convict women and boys from the routine convict administration to the governor and legislative council.[40] Applications for assignment were to be considered weekly and this gave the council an independence of meeting outside the formal summons from the governor.[41]

Brisbane's constant complaint had been the lack of responsible advisers with whom he could discuss matters beyond his own experience.[42] The council provided a forum for his officials to express their opinions on colonial affairs and for the administration to draw on their experience, a practice that was formalized by the introduction of an executive council in Darling's instructions.[43] Undoubtedly Brisbane's confidence in Forbes eased the governor's acceptance of the council, especially since Brisbane had a poor opinion of its members individually.[44] Forbes acted as mediator in the colonial squabbles which found their way into the council chamber and, despite the tension of personal differences, the governor and his council preserved a united public image.[45] Brisbane welcomed the council as a helpful addition, rather than a restriction, to his authority and his government acquired a confidence that had been lacking earlier.

40. Bathurst to Brisbane, 21 November 1824, HRA i,X1,418.
41. New South Wales Act 1823, HRA iv,1,661; New South Wales Legislative Council, Minutes, 21 June 1825 and successive meetings, ML A3980.
42. Brisbane to Bruce, 20 May 1825, Brisbane Papers ML FM4/1626, Section 1.
43. Forbes to Wilmot-Horton, 24 March 1825, HRA iv,1,590; Melbourne, op.cit., p.106.
44. Brisbane had quarrelled with three members of council, Goulburn, Oxley and Bowman by mid-1824. Brisbane to Bruce, 1 July 1824, - September 1825, Brisbane Papers ML UC MSS 329.
45. Forbes to Wilmot-Horton, 24 March 1825, HRA iv,1,590; Scott to Wilmot-Horton, 27 September 1825, CO 201/168, f.178.

Brisbane had not been briefed about administrative matters or policy. Everything was to await Bigge's report and Brisbane complained that he was not even given the customary warning to keep expenses to a minimum.[46] Aware of his lack of administrative experience, Brisbane intended to initiate general policies but would leave daily administration to his various departmental officials who would be free to act within the guidelines of general policy. Provided their results were satisfactory, Brisbane would not interfere in the affairs of individual civil departments.[47] These principles were to be the distinctive characteristics of Brisbane's administration. They had little in common with the paternal autocracy that had flourished under his predecessors.

In determining the general policies of his government, Brisbane introduced a new element of theory. Among the early governors, only Brisbane positively adopted a theoretical system as a guideline for policies in convict management, land settlement and economic development. For Brisbane, political economy provided a system to integrate the penal and free aspects of the colony. He believed that New South Wales was the

> final field in the world to form a character on the application of Political Economy to...life and for the advantages of the State. 48

In Britain, the application of economic theories to government policies had been influenced by Adam Smith's An Inquiry into the Nature and Causes of the Wealth of Nations (1776). Smith analysed the division of labour, its

46. J.Macarthur jr to E.Macarthur, 30 May 1821, Macarthur Papers ML A2911; J.Macarthur jr to J.Macarthur, 1 June 1821, ibid.; Brisbane to Ferguson, 3 April 1823, Brisbane Papers, Scott Collection, Bundle 6.
47. J.Macarthur jr to E.Macarthur, 30 May 1821, Macarthur Papers ML A2911; J.Macarthur jr to J.Macarthur, 1 June 1821, ibid.
48. Brisbane to Craufurd, 14 February 1822, Brisbane Papers PRO PMG1/1. See also Chapter 6.

effect on productivity, the application of capital and strongly condemned the prevailing protectionist doctrines. With the serious post-war problems after 1815, Smith's work was reconsidered and a number of systematic economic analyses appeared such as David Ricardo's The Principles of Political Economy and Taxation (1817) and the Reverend Thomas Malthus's Principles of Political Economy (1820). Interest in these theories was not confined to intellectuals. They were discussed at social gatherings and among public men and politicians who consulted the theorists.[49] The general principles were well-known and widely accepted.

As early as 1803, the columnist the Reverend Sydney Smith had commented in his discussion of Collin's Account of the English Colony of New South Wales that the governor

> is not quite so conversant in the best writings on political economy as we could wish:...it is rather unfair to exact from a superintendent of pick-pockets, that he should be a philosopher. 50

Smith returned to this criticism in his review of W.C. Wentworth's Statistical, Historical and Political Description of New South Wales in 1819. He condemned the "gross ignorance and absurdity" of the colony's governors:

> An examination on the principles of Adam Smith, and a license from Mr Ricardo, seem to be almost a necessary preliminary for the appointment of governors. 51

Brisbane was not an original thinker but he was interested

49. J.Finkelstein and A.Thimm, Economists and Society (New York, 1973), pp.35-61; G.Wallas, The Life of Francis Place 1771-1854 (London, 1898),p.158; Ward, op.cit., pp.211-217.
50. S.Smith, Works (3 vols., London, 1839), Vol.1, p.50. The article, "Australia", originally appeared in the Edinburgh Review, 1803.
51. Ibid., p.391. The article, "Botany Bay", originally in the Edinburgh Review, 1819.

in the prevailing scientific and social ideas. Political economy was a theory in need of practical experiment. Brisbane did not believe himself to be a theoretical person.[52] He could visualize the system proposed by the theorists but he was anxious to make the theory into reality,[53] hence his pleasure in New South Wales where the theory could be implemented so thoroughly. Brisbane wished to show his friends in Britain, including the Earl of Buchan who had been Adam Smith's friend,[54] that his mathematical calculations were not limited to astronomy.[55] For Brisbane, the colony was a machine which once put into good order would run itself. His job was to establish the system for its efficient operation.[56]

Brisbane had been concerned that his wife and young family have a comfortable home in the colony. He was aware that Macquarie had remodelled the government house at Parramatta and before he left Britain he had decided that its country setting would be an ideal location for his observatory.[57] When he arrived in the colony, Macquarie's family was living in the ramshackle government house at Sydney. During the three months before Macquarie left, the Brisbane family settled at Parramatta. A government order published a week after Brisbane was sworn in as governor announced that he would

52. Brisbane to (Bruce?), 13 December 1822, Brisbane Papers ML FM4/1626, Section 1. Compare A.Atkinson, The Position of John Macarthur and His Family in New South Wales before 1842, Unpublished M.A.Thesis, University of Sydney, 1971, p.183. Atkinson interprets this to mean that Brisbane could not follow facts to a clear conclusion but that ideas had a life of their own.
53. J.J.Eddy, Britain and the Australian Colonies 1818-1831 (Oxford,1969), pp.130-132.
54. Brisbane to Buchan, 30 August 1822, HRA i,X,723-724; D.Winch, Adam Smith's Politics (Cambridge, 1978), p.7.
55. Brisbane to Sir Henry (Makdougall?), 23 March 1823, Brisbane Papers ML FM4/1626, Section 1; Brisbane to (Craufurd?), 13 May 1825, ibid.
56. Brisbane to (?), 31 March 1823, ibid.
57. J.Macarthur jr to E.Macarthur, 30 May 1821, Macarthur Papers ML A2911; R.Crawford to H.Crawford, 1 August 1821, Brisbane Papers GA Ardgowan 295.

live at Parramatta but would be available for interviews in Sydney on the first and third Tuesdays of each month.[58]

In practice, Brisbane travelled to Sydney before breakfast each Tuesday and sometimes stayed in the capital for a day or two. On rare occasions Lady Brisbane and her sister accompanied the governor to town. In Sydney, Brisbane met with his officials and the settlers, inspected convict arrivals and after 1824 called meetings of the legislative council. If the weather was fine, he would take a midday observation of the sun to check the accuracy of his clocks.[59] Parramatta remained the official residence of Sir Thomas Brisbane during the four years of his government. Plans to renovate the vice-regal quarters in Sydney were never implemented.[60]

Parramatta was the second largest town and by the 1820s was virtually the cross-roads of the colony. From Sydney, all roads led west to Parramatta. From there, one road branched south to the settlements at Liverpool and Campbelltown and the scattered farms en route to the southern grazing tracts. Another road continued west from Parramatta, crossing the encircling Hawkesbury-Nepean River at Emu Plains and continuing west over the steep Blue Mountains to the most distant settlement at Bathurst. North from Parramatta, the road passed through the riverbank townships of Windsor and Richmond then petered out to a track following the newly

58. S.G., 8 December 1821; Forbes to Wilmot-Horton, 14 August 1824, Catton Papers, Derby.
59. Brisbane to Bruce, 20 May 1825, Brisbane Papers ML FM4/1626, Section 1; S.G., 29 November 1822, 11 September, 23 October 1823; Australian, 15 December 1825.
60. Renovations were made in late 1825 for Darling but six months later he also moved to Parramatta, declaring the government house in Sydney a "hovel". Darling to Hay, 26 July 1826, CO 323/146,f.191; S.G., 8, 12 December 1825; R.Gillespie, Viceregal Quarters (Sydney, 1975), pp.61-66.

blazed route to the plains of the Hunter Valley. Many retired officials and well-established settlers had their homes in the vicinity of Parramatta and it was the daily meeting place of the colony's social élite. John Macarthur junior hoped that the governor's residence at Parramatta would give his family "frequent opportunity" to become acquainted with the Brisbane family.[61]

Most of Brisbane's work was done at Parramatta. Much was clerical, such as despatches to the Colonial Office, communications from his officials and a mass of petitions from settlers and convicts.[62] Brisbane was an early riser, often at work by five a.m. After two hours of business, the governor would ride for an hour, breakfast and be at his desk again by nine a.m. where he would work steadily until two p.m. when he lunched. In mid-afternoon Brisbane would ride or walk for a few hours or go shooting, though the game was disappointing. After an early dinner at six p.m., Brisbane would attend to any pressing business or spend a few hours in his observatory until he retired at ten p.m.[63] Brisbane found it increasingly difficult to get through the "various and arduous duties of my Government" and his health suffered when the pressure of work restricted his recreation.[64] The situation was not a reflection of Brisbane's productivity. Within a few months of taking office, his successor also complained of the time-consuming and exhausting routine

61. J.Macarthur jr to James Macarthur, 30 April 1821, Macarthur Papers ML A2911.
62. Memorandum of Papers handed over from the Private to the Colonial Secretary at the end of the year 1825, AONSW 5/2333.
63. Brisbane to Bruce, 20 May 1825, Brisbane Papers ML FM4/1626, Section 1; Brisbane to (Craufurd?), 13 May 1825, ibid.; Brisbane to Craufurd, 14 February 1822, Brisbane Papers PRO PMG1/1.
64. Brisbane to (Craufurd?), 13 May 1825, Brisbane Papers ML FM4/1626, Section 1; Brisbane to (?), 31 July 1825, ibid.

business and he feared that his health, as well as the health of his senior officials, would suffer under such a workload.[65]

Brisbane's permanent residence at Parramatta became an important factor in his government. Sydney was the official seat of government and all major departments were located there. Although Parramatta was only fifteen miles away and accessible in two hours by horse, coach or boat, the distance was an inconvenience when immediate decisions had to be taken.[66] Officials were not willing to travel to Parramatta to discuss matters with the governor. Brisbane wished to live in privacy with his family and this, combined with economy measures, meant that visitors to government house were no longer provided with overnight accommodation as had been the custom when Macquarie lived at Parramatta.[67] Much ill-will was created when government officials and guests were expected to find their lodgings at the local inn.[68] Furthermore, there was resentment among officials and settlers alike that the governor was too close to the influence of the wealthy gentry of the Parramatta district.[69]

Macquarie had been a visible governor, entertaining the settlers and travelling throughout the colony. The retired lifestyle of his successor was a noticeable contrast.[70]

65. Darling to Arthur, 15 January, 7 March 1826, Arthur Papers ML A2167; Darling to Hay, 6 March 1826, CO 323/146, f.142.
66. S.G., 3 May 1822; Forbes to Wilmot-Horton, 14 August 1824, 29 June 1825, Catton Papers, Derby.
67. J.Mitchell, Journal of a Voyage to New South Wales...7 April 1822 - 11 May 1823, University of Edinburgh Library DC7.123, pp.37-38; Wylde to Brisbane, 12 July 1822, CSIL 4/1758, f.112.
68. R.Crawford to H.Crawford, 12 September 1822, Brisbane Papers GA Ardgowan 295; Field to Marsden, 28 June 1824, Marsden Papers ML A1992; Australian, 15 December 1825.
69. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.31; Jamison to Wilmot-Horton, 29 June 1824, CO 201/156, f.73; H.Goulburn to Wilmot-Horton, 15 August 1824, Catton Papers, Derby.
70. Mitchell, Journal, pp.37-39; S.G., 3 February 1825; Australian, 15 December 1825; Hayward to Burden, - August 1823, ML BT Box 52, p.1297.

Brisbane's constant residence close to his observatory and away from his officials encouraged remarks that the new governor neglected his civil responsibilities for his astronomy. This view was accepted in New South Wales and Britain and inevitably affected confidence in the measures of Brisbane's government.[71]

For Brisbane himself, the isolation at Parramatta was a mistake. Although he recognized its inconvenience for his officials,[72] he took no steps to make himself more accessible. His life revolved around his family and his public duties became an intrusion.[73] Vice-regal duties had always involved social leadership but Brisbane disapproved of colonial society, free and freed, and was determined that neither he nor his family should become too familiar with the colonists.[74] This prevented Brisbane from using his engaging manners[75] to conciliate local squabbles. People deliberately misinterpreted his comments and the only reliable contact was in writing.[76] Brisbane was not an explorer like Macquarie. He made few visits to the extremities of the colony and although he was enthusiastic about its potential, his period in New South Wales had the detachment of a scientific experiment. Brisbane's isolation at Parramatta dissociated him from the daily problems of his government.

71. Druitt to Bathurst, 18 July 1822, CO 201/111,f.180 ff.; Jamison to Bathurst, 2 September 1822, ibid., f.365 ff.; R.Crawford to H.Crawford, 24 September 1822, Brisbane Papers GA Ardgowan 295; C.Macarthur to King, 20 November 1822, King Papers ML A1976; Stephen to Arthur, 31 July 1824, Arthur Papers ML A2164; H.Goulburn to Wilmot-Horton, 20 November 1824, Catton Papers, Derby; Morning Chronicle, 6 August 1824.
72. Brisbane to Bathurst, 25 August 1822, HRA i,X,714.
73. Brisbane to Craufurd, 13 February 1823, Brisbane Papers PRO PMG1/1; Brisbane's Diary, 26 December 1824, Brisbane Papers ML UCMSS 419, Part 1,p.12.
74. Brisbane to Craufurd, 14 February 1822, 8 April 1823, Brisbane Papers PRO PMG1/1. See Chapter 4.
75. C.Macarthur to King, 20 November 1822, King Papers ML A1976.
76. Brisbane to (Bruce?), 31 December 1823, Brisbane Papers ML UCMSS 329.

The governor had a small personal staff to assist him with military and ceremonial duties and general household management.[77] His brigade-major was Captain John Ovens who had been in New South Wales in 1809 with Macquarie's regiment. He returned to Britain in 1811 and transferred to active service in the Peninsula, where he became an aide-de-camp to Brisbane and remained on his personal staff after the war. In New South Wales, Brisbane appointed Ovens acting chief engineer and later he was also the governor's private secretary. Ovens was an efficient but austere and sometimes a harsh man though his efforts were generally respected by the colonists who regretted his early death in late 1825 at the age of thirty-seven.[78]

Brisbane's other personal assistant was his aide-de-camp, Lieutenant John Fennell, a marine who had once been Brisbane's cousin's aide. Fennell joined Brisbane's staff in 1814 and managed Brisbane's household in Britain and in the colony.[79] Fennell was a good-natured man and made friends easily among the colonists.[80] In 1825 he resigned his commission and married Mary Ann, a daughter of prominent colonist Archibald Bell. Brisbane appointed him commandant at Bathurst, where he died in 1826.[81]

Fennell's successor was Lieutenant Robert Stirling who

77. Brisbane's staff was specified in his commission as commander of the troops. Duke of York to Brisbane, 3 March 1821, Brisbane Papers ML UCMSS 419, Part 2.
78. Australian, 15 December 1825; Harvey to Brisbane, 19 March 1819, Brisbane Papers, Scott Collection, Bundle 6; "J.Ovens", ADB, Vol.2.
79. Fennell to Bathurst, 12 November 1824, CO 323/119,f.360; J.Macarthur jr to E.Macarthur, 30 May 1821, Macarthur Papers ML A2911; Brisbane to Craufurd, - July 1822, Brisbane Papers PRO PMG1/1. W.Steel, "Lieutenant John Fennell", JRAHS, 22 (1936), pp.444-448 was mistaken that Fennell was a soldier in the 48th Regiment.
80. J.Macarthur jr to James Macarthur, 30 April 1821, Macarthur Papers ML A2911; Mitchell, Journal, pp.89-90.
81. S.G, 13, 20 January 1825, 8 July 1826.

arrived in New South Wales with the 3rd Regiment (the Buffs) in 1822. He brought an introduction from the governor's friends in Britain and Brisbane considered him a "very fine gentlemanly young man".[82] Stirling assisted the surveyor-general in exploring Moreton Bay, was appointed assistant engineer in March 1824 and Brisbane applied for him as his permanent aide-de-camp in January 1825. He returned to Britain with Brisbane at the end of 1825 and remained his aide until 1827.[83]

Brisbane was undeterred by the Colonial Office's insistence that he await Bigge's reports for the guidelines of his administration. He was soon busy "new-modelling" all the institutions of the colony in accordance with his concept of political economy, though he was aware that the effect of his reforms would not be felt for two or three years.[84]

Brisbane condemned Macquarie's administration as "founded on a fallacy and guided alone by the caprice of favouritism and cabal" which had failed to develop the potential of the colony.[85] There had been accusations of widespread inefficiency and corruption and Bigge believed that the extensive frauds would never be uncovered while Macquarie was governor.[86] The new colonial secretary had started a file on peculation when he took office in 1821[87] and Brisbane was

82. S.G., 15 March 1822; Brisbane to Crafurd, - July 1822, Brisbane Papers PRO PMG1/1.
83. Oxley to Goulburn, 10 January 1824, HRA i,X1,225; S.G., 4 March 1824; Brisbane to Taylor, 29 January 1825, Catton Papers, Derby; S.G., 20 January 1825; Hay to Darling, 15 January 1828, HRA i,X111,703-706. Stirling's brother was commander of the new settlement at Swan River, Western Australia. Stirling was killed by pirates on his way to rejoin his regiment in India in 1829. W.A.Wood, Dawn in the Valley. The Story of the Settlement of the Hunter River Valley (Sydney, 1972), p.67.
84. Brisbane to Craufurd, 18 May 1822, Brisbane Papers PRO PMG1/1; R.Crawford to H.Crawford, 31 December 1821, Brisbane Papers GA Ardgowan 295.
85. Brisbane to Bruce, 18 March 1822, Brisbane Papers ML FM4/1626, Section 1; Brisbane to (?), 15 February 1823, ibid.
86. Bigge to Wilmot-Horton, 27 August 1822, Catton Papers, Derby; Bowman to Buchanan, - September 1820, Buchanan Papers Vol.1, Macarthur Collection ML A4266.
87. Bigge to Wilmot-Horton, 27 August 1822, Catton Papers, Derby.

horrified, believing that Macquarie had chosen to overlook, if not actually to condone, widespread fraud:[88]

> It would have been nothing to have established from the commencement of the colony, a system of order and regulations...,but here it was requisite to do more by new modelling all the old established regulations, which although they were most simple in themselves, had purposely been rendered complicated, as the more transactions were mystified, the less easy to discover the iniquity. [89]

Brisbane acted quickly to make an example of one of the most blatant offenders. Major George Druitt, the chief engineer, was accused of misappropriating government property and was suspended in early 1822.[90] This created a favourable impression of Brisbane's intentions in Britain[91] but its effect was lost as the investigation persisted throughout Brisbane's administration, accompanied by tales of threats and bribery by other high-ranking officials.[92] Druitt received little sympathy from other officials[93] and he was probably neither better nor worse than the others.[94]

Bigge's investigations had overshadowed the close of Macquarie's government but his reports had less impact on Brisbane's administration than many anticipated. Bigge had questioned the leading settlers for their views on policy and administration problems.[95] When the new governor arrived, these

88. Brisbane to Craufurd, 9 March 1822, Brisbane Papers PRO PMG1/1.
89. Brisbane to (?), 13 December 1822, Brisbane Papers ML FM4/1626, Section 1.
90. Brisbane to Taylor, 4 March 1822, HRA i,X,626-628.
91. Bathurst to Murray, 11 November 1822, Bathurst Papers BM Loan 57/64,p.17.
92. Druitt to Bathurst, 18 July 1822, CO 201/111,f.180 ff.; Brisbane to Bathurst, 31 January 1824, HRA i,X1,213. The details of the Druitt investigation fill CO 201/151. See also Chapter 3.
93. Marsden to Bigge, 29 January 1822, ML BT Box 27,p.6686; Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44,pp.37-38.
94. Brisbane was annoyed to find that Judge Wylde's cattle grazed illegally on land belonging to the Orphan School of which he was a trustee whilst the lieutenant-governor, Colonel Erskine, was more interested in his cheese making than his official duties but Brisbane took no official action against them, Brisbane to (?), 26 July 1823, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329.
95. J.Ritchie, The Evidence of the Bigge Reports (2 vols., Melbourne, 1971), Vol.2 - Written Evidence, pp.42-43.

settlers were anxious to repeat their opinions and Brisbane was presented with copies of their letters to Bigge.[96] From this information, Brisbane was able to introduce policies which included their suggestions and removed old complaints.[97] The result was substantial anticipation of Bigge's recommendations.[98]

Brisbane had expected that the Bigge reports would lead to major administrative changes and he delayed necessary reforms in the Naval Office and the appointment of additional medical officers.[99] Few civil officials had been appointed in the early years of the settlement and administrative duties were often performed by junior officers under the governor's military command. The administration grew haphazardly with appointments by the British government and the governor. While the governor was principally the administrator of a gaol, the confused state of his administrative sub-structure had little relevance but by the close of Macquarie's government there were increasing pressures on the administration from the settlers.[100]

The prominence of convict affairs was evident in the staffing of the departments concerned with the physical and moral welfare of the convicts. By 1821 the British government had appointed a principal surgeon and four assistants and the governor had appointed another three. The

96. Jamison to Bathurst, 2 September 1822, CO 201/111,f.365; J.Macarthur, Suggestions for the development of the colony, 19 December 1821, Macarthur Papers ML A2897.
97. See Chapters 3,5 and 6.
98. Brisbane to (?), 13 December 1822, Brisbane Papers ML FM4/1626, Section 1; S.G., 13 December 1822; Oxley to King, 20 April 1823, King Papers ML A1976.
99. Brisbane to Arthur, 20 June 1825, Arthur Papers ML A2166; Goulburn to Douglass, 28 February 1827, Goulburn Papers, Surrey County Record Office Acc.319, Box B 11/9/E, No.65; Minute, Bowman to Goulburn, 25 September 1822, CSIL 4/1758,f.61.
100. J.W.Cell, British Colonial Administration in the Mid Nineteenth Century (New Haven, 1970), p.68.

principal chaplain had seven assistants, all appointed and paid by the British government. The surveyor general, whose work was not related to convict administration, had only one assistant and it was not until 1821 that Macquarie appointed two further assistants. Colonial finances were similarly under-staffed, with only the naval officer appointed by the Crown and the treasurer of the Police Fund appointed by the governor.[101]

Although Bigge's reports covered most aspects of colonial affairs, his major recommendations were confined to convict and judicial matters and there was no systematic review of the colonial administration. Most of the new appointments in 1823 and 1824 were piecemeal additions to the existing departments, "a change only, not a revolution".[102] At the close of Macquarie's government, the civil establishment had 137 positions.[103] Minor restructuring by Brisbane had reduced this to 109 positions, filled by ninety-five officials, in 1823 but, with the new appointments following the Bigge reports and the 1823 New South Wales Act, the numbers escalated to 243 positions with 198 officers by 1825.[104]

The judiciary was the only department to be thoroughly restructured in 1823, largely due to the new chief justice who helped draft the legislation. A judicial system, ressembling a military court-martial had been established in 1788. The governor nominated the military jurymen,

101. List of Persons holding Civil and Military Employments, 30 November 1821, HRA i,X,579-582.
102. Forbes to Wilmot-Horton, 6 March 1827, HRA iv,1,690.
103. List of Persons holding Civil and Military Employments, 30 November 1821, HRA i,X,579-582.
104. Colonial Returns 1823, 1825.

acted as a court of appeal and granted pardons and reprieves.[105] In 1814, this system was restructured. A criminal court with a jury of six naval or military officers appointed by the governor was held by the judge-advocate. Two civil courts, the governor's court in which the judge-advocate presided with the assistance of two people nominated by the governor and the supreme court with its own judge, dealt with the increased litigation of the expanding colony. Two Crown solicitors were appointed to relieve the difficulties caused by the lack of lawyers.[106]

The judge-advocate from 1816 to 1824 was John Wylde. Macquarie found him a friendly man but Bigge believed that Wylde had taken little care to separate his conflicting duties as judge, prosecutor and juror.[107] The judge of the supreme court, Barron Field, had also arrived in 1816. He and Macquarie had quarrelled and, although Bigge relied on his legal knowledge, he believed that Field was too violent and prejudiced to be impartial in his judicial decisions.[108]

At the begining of his government, Brisbane turned to the judges for advice on colonial affairs. Wylde and Field advised the governor against the appointment of John Macarthur as a magistrate in early 1822. Brisbane accepted their recommendation, though not without doubts as to its expediency, and lost the support of John Macarthur.[109] Brisbane considered that neither of the judges was "any great shakes!" and hoped

105. Melbourne, op.cit., pp.11-13.
106. Ibid., pp.37-46; Currey, op.cit., pp.23-24.
107. Bigge to Bathurst, 9 September 1822, quoted in Ritchie, Bigge - Written Evidence, p.172; "J.Wylde", ADB, Vol.2.
108. Bigge to Bathurst, 9 September 1822, quoted in Ritchie, Bigge - Written Evidence, pp.170-171; "B.Field", ADB, Vol.1.
109. Brisbane to Bathurst, 27 February 1822, HRA i,X,624-625. See Chapter 7.

they would be replaced.[110]

Brisbane's conflict with Field was not due to any specific legal difference. Though both were men of cultured and scientific interests, this compatibility did not mature into a closer relationship. Field disapproved of Brisbane's land and economic policies and was a prominent opponent. Brisbane complained of his constant slander but did not know the reason for Field's antipathy.[111]

The tension between Wylde and Brisbane concerned legislative and judicial issues. In May 1822, Brisbane complained that Wylde had warned the magistrates that the governor's proclamations were not sufficient authority for them to act with civil as well as criminal jurisdiction. Brisbane was annoyed that Wylde had not raised the matter with him before alarming the whole colony and requested Wylde's removal.[112] Membership of the governor's court was also a continuing source of conflict. Wylde wanted civilian appointees but Brisbane appointed junior officials loyal to the governor to ensure his majority in the court if prosecutions arose from Wylde's doubt about the governor's proclamations.[113]

Wylde and Brisbane also clashed over criminal cases. Brisbane wanted written information to assist his decision for appeals or reprieves from capital sentences. There were no written records and Wylde persistently refused to give opinions in writing. Having sentenced a prisoner on the evidence presented, Wylde was relucant to recommend whether the

110. Brisbane to Craufurd, 14 February 1822, Brisbane Papers PRO PMG1/1.
111. Brisbane to Bathurst, 21 January 1824, HRA i,X1,199. See Chapter 7.
112. Brisbane to Bathurst, 2 May 1822, with encl., HRA i,X,633-648.
113. Ibid., p.634; Wylde to Brisbane, 30 April 1822, ibid., pp.648-650; Wylde to Brisbane, 24 July 1823, HRA iv,1,487.

sentence should be carried out. There was no guidance for either the governor or the judge and Bathurst supported Brisbane's request for written information.[114]

The Colonial Office was aware of the conflicts between Brisbane and the judges but took no action because the courts were to be restructured in the 1823 legislation.[115] Brisbane's lack of confidence in Wylde and Field limited the occasions on which he would ask their advice in preparing legislative proclamations before the establishment of the legislative council. This caused problems in later years. In 1825 it was discovered that Brisbane had omitted to specify quantities in import duties which he had proclaimed in 1823 and there was a spate of legal battles to import spirits and tobacco without paying duty.[116]

The total reorganisation of the judiciary in 1823 was a welcome relief for Brisbane. The 1823 Act and its charter of justice established a new supreme court under a chief justice with criminal and civil jurisdiction. In criminal matters, the prosecution was conducted by an attorney-general with a jury of seven naval or military officers. Civil actions were judged by the chief justice with two magistrates or a jury of twelve men if both parties agreed. Courts of quarter sessions, conducted by the magistrates, could settle minor complaints while a court of requests was formed for the recovery of small debts. Appeals could still be made to the

114. Brisbane to Bathurst, 25 August 1822, with encls., HRA i,X,714-721; Wylde to Bathurst, 4 September 1822, CO 201/111,f.655; Stephen to Bathurst, 24 March 1823, HRA iv,1,438-440; Bathurst to Brisbane, 31 March 1823, HRA i,X1,72-73; Wylde to Brisbane, 6 November 1823, CSIL 4/1766,f.65.
115. Bathurst to Brisbane, 31 March, 4 August 1823, HRA i,X1,68,102.
116. S.G, 3 March 1823, 2 June 1825; Australian, 19 May 1825; Forbes to Wilmot-Horton, 29 June 1825, Catton Papers, Derby.

governor and appeals over £2,000 were to go to the Privy Council.[117]

As well as the chief justice and the attorney-general, the new court officials included George Mills who was appointed registrar with William Carter as master of the court and John Mackaness as sheriff.[118] The commissioner of the court of requests and solicitor-general was John Stephen. The 1823 Act had empowered the governor to appoint the commissioner and Brisbane had already named H.G.Douglass for the position. Stephen retained the post as commissioner and in 1825 Brisbane and the legislative council appointed him assistant judge in the supreme court.[119]

Changes in personnel were also made in the financial and convict departments after the British government had considered Bigge's reports. D'Arcy Wentworth had been appointed treasurer of the colonial revenue, the Police Fund, by Macquarie in 1810. Customs were collected by John Piper who had been the naval officer since 1814.[120] Though Piper's office was not restructured during Brisbane's administration,[121] Wentworth was replaced by a colonial treasurer. William Balcombe was appointed to the new position by the British government in 1823.[122]

Expenditure for convicts and the military was controlled by the commissariat.[123] William Wemyss had been appointed

117. Currey, op.cit., pp.25-26.
118. Bathurst to Brisbane, 5, 22 January 1824, HRA i,X1,192-193,200-201.
119. Bathurst to Brisbane, 20, 21 January 1824, ibid., pp.198-199; Brisbane to Bathurst, 21 February 1824, 26 June 1825, ibid., p.230,677-678; Currey, op.cit., pp.93-96.
120. "J.Piper", "D.Wentworth", ADB, Vol.2. See also Chapter 6.
121. Darling to Arthur, 7 March 1826, Arthur Papers ML A2167.
122. Bathurst to Brisbane, 2 October 1823, HRA i,X1,138.
123. See Chapter 6.

deputy commissary general in 1820. A well-meaning man whose policies made him unpopular, Brisbane thought him weak, capricious and malevolent but tolerated him because of his honesty.[124] In 1823, William Lithgow was appointed to audit the commissary accounts and Brisbane extended his duties to include all colonial accounts.[125]

Bigge's reports contained many suggestions for improving the administration of the convict system and the colonial police.[126] The British government made two major staff changes. Frederick Hely replaced William Hutchinson as superintendent of convicts and Francis Rossi was appointed superintendent of police in place of D'Arcy Wentworth in 1825.[127] Brisbane removed the chief engineer in 1822 and requested a qualified captain of engineers to replace him in 1824 but no new appointment was made.[128]

The salaries of Church of England clergy in the colony were paid by the British government. Their immediate superior was the governor, a situation which caused some conflict between Macquarie and the principal chaplain, the Reverend Samuel Marsden.[129] The position of the Church of England within the civil establishment was strengthened in 1824. T.H.Scott, Bigge's secretary, was appointed as the colony's first archdeacon and was given a seat on the legislative

124. J.Macarthur to J.Macarthur jr, 19 October 1823, Macarthur Papers ML A2899; Forbes to Wilmot-Horton, 29 June 1825, Catton Papers, Derby; Brisbane to Bathurst, 24 March 1825, HRA i,X1,556; "W.Wemyss", ADB, Vol.2.
125. Harrison to Brisbane, 13 December 1823, HRA i,X1,186; Brisbane to Bathurst, 2 October 1824, ibid., p.379; "W.Lithgow", ADB, Vol.2.
126. See Chapter 3.
127. Bathurst to Brisbane, 1 January 1823, HRA i,X1,1; Bathurst to Brisbane, 2 January 1825, ibid., pp.457-458.
128. Brisbane to Taylor, 4 March 1822, HRA i,X,626-628; Brisbane to (Horse Guards?), 18 June 1824, Brisbane Papers ML FM4/1626, Section 1.
129. J.T.Bigge, Report of the Commissioner of Inquiry on the State of Agriculture and Trade in the Colony of New South Wales (1823 and facsimile edition Adelaide, 1971), pp.68-69; J.Woolmington (ed.), Religion in Early Australia. The Problem of Church and State (Melbourne, 1976), pp.1-14.

council. Within the colonial hierarchy, Scott followed the lieutenant-governor and had precedence over other officials. At the same time, the Church and School Corporation was established though it did not come into operation while Brisbane was governor. One-seventh of the extent and value of land in each county was to be vested in the corporation for the support of the Church of England clergy and for the education of colonial youth.[130]

Father J.J.Therry had been the only Roman Catholic priest in the colony since 1819. There was a large and scattered Roman Catholic population, many of whom were Irish convicts. Brisbane blamed most crimes on the ignorance of the uneducated Catholics and requested the British government to provide pastoral and educational assistance.[131] There was no regular Presbyterian ministry until the Reverend John D.Lang arrived in 1823. Lang had offered to join his brother, who was employed by the commissariat, if the settlers required a Presbyterian clergyman.[132] The Presbyterians included many government and military officers as well as a number of the earliest free settlers. Disputes about aid to build a kirk were resolved by the colonial government paying the salary of their minister.[133] Macquarie had not approved of the dissenting churches but Brisbane gave the Wesleyans his personal support, flattered by their references to his aunt,

130. Bathurst to Brisbane, 21, 23 December 1824, 1 January 1825, HRA i,X1, 419-422,424-426,438-439. See Chapter 4 for colonial education.
131. Brisbane to Bathurst, 28 October 1824, with encls., HRA i,X1,382-385; Woolmington, op.cit., pp.30-37; J.Waldersee, Catholic Society in New South Wales 1788-1860 (Sydney, 1974), pp.19-20.
132. Lang to Piper, 6 April 1821, Piper Papers ML A256.
133. Brisbane to Bathurst, 14 August 1824, with encls., HRA i,X1,341-346; Bathurst to Brisbane, 16 August 1824, 27 February 1825, ibid., pp.346-347, 528-529; D.S.Macmillan, Scotland and Australia 1788-1850 (Oxford, 1967), pp.106-107. See also below and Chapter 7.

a well-known disciple of Wesley.[134]

By 1825, the colonial government supported twelve Church of England churches, a Roman Catholic church and a Presbyterian kirk. The Wesleyans, though in financial problems, did not receive permanent aid.[135] In spite of general religious toleration, relations between the clerics were strained and Brisbane lamented that unchristian dissension split the churches as well as the secular community. These tensions assumed wider political significance through the prominence of Marsden, Scott, Lang and the Wesleyan missionary William Walker in the intrigues of the period.[136]

The senior colonial officials who were named as members of the first legislative council were the colonial secretary, the surveyor-general and the principal surgeon. A colonial secretary had been appointed by the Colonial Office in 1820 to maintain the official documents and correspondence in the colony. The position was held by Frederick Goulburn, a half-pay major and younger brother of the under-secretary of state for the colonies. A proud, well-educated man in his mid-thirties, Goulburn irritated many colonists. His office was not affected by Bigge's recommendations but under Brisbane it developed as the major department of his administration.[137]

The surveyor-general, John Oxley, was one of the longest

134. Woolmington, op.cit., pp.12-13; Brisbane to Miss Bruce, 12 August 1823, Brisbane Papers ML FM4/1626, Section 1; Brisbane, Diary, 28 December 1823, Brisbane Papers ML UCMSS 419, Part 1; Carvosso to Wesleyan Secretary, - April 1825, ML BT Box 53, p.1480.
135. Colonial Returns 1825; Wood to Wesleyan Committee, 7 September 1822, ML BT Box 52, p.1135; Woolmington, op.cit., p.48.
136. Carvosso to Wesleyan Secretary, 29 October 1822, ML BT Box 52, p.1186; Brisbane, Diary, 28 September, 28 December 1823, Brisbane Papers ML UCMSS 419, Part 1. See Chapters 7 and 8.
137. H.King, "Frederick Goulburn: The Man and His Office", Australian Journal of Public Administration, 38 (1979), pp.233-245; G.D.Richardson, The Archives of the Colonial Secretary's Department, New South Wales 1788-1856. Unpublished M.A.Thesis, University of Sydney, 1951, pp.1-25. See below.

serving officials. He had been a naval officer and had several years' surveying experience before he was appointed surveyor-general in 1812. Though some considered him to be a clever man,[138] others dismissed him as too weak to succeed in the intrigues of colonial life.[139] He found the new governor's policies unpalatable.[140] James Bowman, the principal surgeon, had arrived in 1819 with Bigge. The commissioner praised his efforts and Bowman's duties were not changed by Bigge's reports. Though accused of causing unrest in Brisbane's administration, Bowman was not an influential figure. Brisbane disapproved of Bowman acting as agent for a British merchant and after his marriage to John Macarthur's daughter in 1823, the principal surgeon was closely identified with his father-in-law's ambitions.[141]

Beneath the department heads were a number of assistant surgeons, surveyors and chaplains, followed by storekeepers and various superintendents and overseers, generally stationed outside Sydney, and clerical staff. These lowest ranks included many convicts. Brisbane gradually replaced the convict clerks with more respectable young men from among the new immigrants but the problem was not totally eradicated.[142]

138. Mitchell, Journal, pp.84-85; Darling to Hay, 1 May 1826, HRA i,XII,256; "J.Oxley", ADB, Vol.2. See Chapter 5.
139. R.Howe, Diary, 2 January 1823, ML B846/1; C.Macarthur to King, 20 November 1822, King Papers ML A1976; J.Macarthur to J.Macarthur jr, 24 January 1824, Macarthur Papers ML A2899.
140. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44.
141. "J.Bowman", ADB, Vol.1; Bigge, Agriculture and Trade, p.111; Jamison to Wilmot-Horton, 29 June 1824, 7 February 1825, CO 201/156, ff.71-72, CO 201/167, f.154; Brisbane to (Bruce?), 31 December 1823, Brisbane Papers ML FM4/1626, Section 1; Brisbane to (?), 31 July 1825, ibid.; Forbes to Wilmot-Horton, 7 November 1824, Catton Papers, Derby.
142. J.T.Bigge, Report of the Commissioner of Inquiry into the State of the Colony of New South Wales (1822 and facsimile edition Adelaide, 1966), pp.41-42; Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329; Darling to Hay, 6 February 1827, HRA i,XIII,76-77.

Day to day administration was a mixture of practices condoned by time and experience, adaptations of British methods and makeshift responses to particular situations. A survey of officials in late 1824 revealed that few had ever received instructions on the procedures and duties of their posts. Most had simply followed the apparent methods of their predecessors.[143]

Brisbane expected his officials to be competent and responsible in their duties. The officials who were most directly involved in introducing Brisbane's policies were the colonial secretary, the chief engineer, the surveyor-general and the commissary. Their efficiency within their departments encouraged Brisbane to follow his preconceived system of general supervision and he allowed these officials considerable discretion.[144]

After Brisbane had read a despatch from the Colonial Office, he sent it to the colonial secretary for comments or further information. When they had discussed its contents and a course of action had been decided, the colonial secretary would communicate this decision to the appropriate department. Reports were sent back to the governor from the department officials through the colonial secretary's office and Brisbane or Goulburn would prepare a despatch to the Colonial Office.[145]

This procedure was the practical application of Brisbane's

143. Replies to a circular of 20 September 1824, CSIL 4/1775,ff.162-172.
144. Brisbane to Bathurst, 26 January 1825, Brisbane Papers Scott Collection Compartment 2, Bundle 6; Australian, 15 December 1825; Darling to Hay, 4 September 1826, CO 323/146,f.200; Forbes to Wilmot-Horton, 24 March 1825, HRA iv,1,587.
145. Minutes of a conversation between William and James Macarthur and Brisbane, 5 February 1824, Macarthur Papers ML A2962. For example, Bathurst ordered the exploration of Moreton Bay in his despatch 9 September 1822, HRA i,X,791. Oxley reported the results to Goulburn which Brisbane conveyed in his despatch to Bathurst, 3 February 1824, HRA i,X1,215-225.

plan of government by general supervision and departmental initiative.

> The present Governor...does not feel it his duty to interfere with the public departments, other than by keeping in motion the various springs of the complicated machine he has to guide and govern. 146

Officials and settlers were dubious about the efficiency of the new system. All agreed that Macquarie's "fatiguing" supervision had been excessive[147] but from the beginning there were complaints that Brisbane tolerated too much independence. Bowman commented that everyone wanted to govern and the governor needed to exert his own authority.[148] Oxley complained of the absence of any guiding control, allowing officials to indulge in

> the wild and impracticable theories that seem to have taken possession of the Brains of some of our Many rulers. 149

The comments were echoed by other colonists.[150] Hannibal Macarthur thought that Brisbane was mistaken to leave the details of his government to his "responsibles" and his cousin James Macarthur considered that the governor was surrounded by weak men who were not suited to such responsibility.[151] Uncontrolled independence weakened the governor's authority over his officials. Having enjoyed their new independence, they resented the governor's interference in their departments.[152]

146. S.G., 3 February 1825.
147. Ibid.
148. Bowman to Buchanan, - February 1822, Buchanan Papers Vol.1, Macarthur Collection ML A4266.
149. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.14.
150. Jamison to Bathurst, 2 September 1822, CO 201/111,f.365; Mrs Brooks, Diary, 26 January 1826, NLA MS1559/4.
151. H.Macarthur to King, 18 April 1823, King Papers ML A1976; James Macarthur to J.Macarthur, 12 February 1824, Macarthur Papers ML A2962.
152. Forbes to Wilmot-Horton, 6 February 1825, Catton Papers, Derby.

To the officials of a largely unstructured administration, Brisbane's approach to his government provided no leadership:

> He has very considerable ability which he will not use, submits his own better Judgement to inferior men and with the very best and most disinterested intentions, he is generally considered as having accepted a situation which...he will not take the trouble to execute the duties of; A man of business he certainly is not, he does not pretend to be one, His talents and acquirements tend to different habits and with profound astronomical knowledge he is perhaps deficient in some of the more practically useful acquirements of commoner men, indeed I think he now begins to experience the difference between commanding a Brigade and governing a colony, the most singular ever planted. 153

Just as Brisbane's ~~officials~~ subordinates failed to appreciate his approach to his government, so did Brisbane fail to adjust his system to the realities of the colonial administration. His system required an efficient and co-operative civil administration but Brisbane was soon aware that his officials were generally prominent in the quarrels and jealousies which split the small community.[154] Nor would ~~his officials~~ they work together and their constant quarrels kept the administration in a state of perpetual internal warfare. After eighteen months of tact and perseverance, Brisbane would have gladly given up his government.[155]

> One must really manage the materials one has, in such a way as to make them work to the best advantage for the public good. 156
> Is it therefore to be wondered, with such discordant materials that the machine should be difficult to manage. 157

153. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44,p.32d.
154. Berry to Barnard, 15 February 1822, Berry Papers ML MSS 315/5; Brisbane to (?), 26 July 1823, Brisbane Papers ML FM4/1626, Section 1.
155. Brisbane to (?), 26 July 1823, Brisbane Papers ML FM4/1626, Section 1.
156. Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329.
157. Brisbane to (Bruce?), 31 December 1823, ibid.

Public officers took "liberties" that they would not have dared to do in Britain,[158] becoming deeply involved in political quarrels and carrying their private disputes with fellow officials and settlers into their public duties. It was impossible to present a unified or impartial administration.[159]

By April 1823, aside from his personal staff, Brisbane was satisfied with only two officials, Goulburn and Wemyss.[160] Replacements were not available for unsatisfactory officials and Brisbane doubted his authority to remove officials who held Crown appointments.[161] In such circumstances, Brisbane should have exerted stricter control over his subordinates. He anticipated that many of these problems would be overcome by the new appointments which followed Bigge's report.[162] Some, such as Forbes, Lithgow and Rossi, proved to be competent and co-operative ~~officials~~ but the concern of the friends of the new sheriff, John Mackaness, that he leave England before his imprudence and carelessness ruined him did not indicate a careful selection of the new officials.[163]

The official with whom the governor had the closest working relationship was the colonial secretary. Their problems in administrative and political matters provide the most important illustration of the weaknesses of Brisbane's style of government.

158. Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329.
159. Forbes to Wilmot-Horton, 16 September 1826, Forbes Papers ML A1819.
160. Brisbane to Craufurd, 8 April 1823, Brisbane Papers PRO PMG1/1.
161. James Macarthur to J.Macarthur, 14 February 1824, Macarthur Papers ML A2962; Manning, British Colonial Government, pp.107-109.
162. Brisbane to Butterworth, 28 May 1824, Brisbane Papers ML FM4/1626, Section 1.
163. Williams to Wilmot-Horton, 29 November 1823, CO 323/118,f.553.

A colonial secretary had only been appointed in 1820 but in practice the office had existed since the foundation of the colony. Governor Phillip had needed someone to attend to the regular government paperwork and these duties gradually merged with those of the personal secretary to the governor. In 1804 Governor King requested a permanent official for duties involving

> the custody of all official papers and records...; transcribes the public despatches;...making out all grants, leases and other public Colonial instruments; also has the care of numerous indents or lists sent with convicts of their terms of conviction, and every other official transaction relating to the colony and Government; and is a situation of much responsibility and confidence. 164

No appointment was made by the Colonial Office. J.T.Campbell acted as Macquarie's private and official secretary and Macquarie also wanted Campbell's duties recognized as an integral part of the official establishment. From 1816, Campbell had his own office and was in fact if not in name head of an important branch of the government.[165] Macquarie's attempt to obtain official status for Campbell's position was echoed by W.C.Wentworth in his book on the colony.[166]

In 1819 Macquarie gave Campbell the additional position of provost marshall. The Colonial Office assumed that the situation of secretary to the governor was vacant and took the opportunity to make it a regular, official appointment. Major Frederick Goulburn was selected as the first secretary and registrar of New South Wales.[167]

164. King to Hobart, 1 March 1804, HRA i,1V,538; Editor's note No.180,ibid., pp.690-691; Richardson, op.cit., pp.1-25.
165. Macquarie to Bathurst, 24 March 1815, 4 April 1817, HRA i,V111,469, HRA i,1X,358-359; Richardson, op.cit., p.22; "J.Campbell", ADB, Vol.1.
166. W.C.Wentworth, Statistical, Historical and Political Description of the Colony of New South Wales (1819 and facsimile edition, Adelaide, 1978),p.378.
167. Bathurst to Macquarie, 24 March 1820, HRA i,X,294-295.

Although the position was now officially accredited, the responsibilities and duties were not defined. This led to conflict in 1822 between Goulburn and Judge Wylde over the custody of official records.[168] The Colonial Office's legal adviser, James Stephen, commented that the position of colonial secretary, "not being an Office known to the Law of England", had caused problems in other colonies and had required definition by their legislative assemblies.[169] New South Wales did not have a legislative assembly but the problem had been brought to the attention of the Colonial Office while the New South Wales Bill was being drafted. Nevertheless, no action was taken to clarify the position of the colonial secretary and it was not until the problem had caused irreparable damage to Brisbane's administration that the duties of officials in Darling's government were stipulated.[170]

Goulburn arrived in New South Wales at the close of Bigge's inquiry. He was probably aware that Macquarie's resignation had been accepted[171] and in the two months before Bigge's departure it was not unlikely that the commissioner confided some of his impressions and criticisms to the man who would obviously be involved in effecting any reforms.[172] Goulburn's relations with Macquarie were uneventful though there were rumours of conflict because Macquarie would not accept new ideas suggested by Goulburn.[173] Goulburn was aware

168. Brisbane to Bathurst, 15 July 1822, with encl., HRA i,X,663-665.
169. Stephen to Bathurst, 20 March 1823, HRA iv,1,436-437.
170. Forbes to Wilmot-Horton, 14 August 1824, Catton Papers, Derby; Stephen to Wilmot-Horton, 27 March 1825, HRA iv,1,593-594; Bathurst to Darling, 14 July 1825, HRA i,X11,18-19.
171. Goulburn travelled to the colony on the Hebe which also carried Bathurst's acceptance of Macquarie's resignation. Bathurst to Macquarie, 15 July 1820, HRA i,X,314; "F.Goulburn", ADB, Vol.1.
172. They discussed corruption. Bigge to Wilmot-Horton, 27 August (1822?), Catton Papers, Derby.
173. Berry to (?), 10 January 1823, Berry Papers ML UCMSS 315/5.

of discord and tension within the administration and looked forward to the arrival of the new governor.[174]

Macquarie's absence when Brisbane arrived gave Goulburn the advantage of meeting his new superior alone.[175] Brisbane was impressed with his new senior officer:

> upon my arrival in the colony, I found Major Goulburn perfectly conversant in all details of its administration, and was glad to avail myself of His local information as well as general knowledge; many points of which were new to me, and as I became better acquainted with Him, I felt the more disposed to extend that confidence. [176]

Though Goulburn had as little administrative experience as the new governor,[177] his ability to cope with the drudgery of day to day administration reassured Brisbane in his general supervisory role.

The colonial secretary's office was in Sydney. Under J.T.Campbell, the office had been managed by a chief clerk, M.M.Robinson, a former convict.[178] Robinson was replaced in 1820 by James Atkinson, a newly arrived free settler with several years' experience in a clerical position in England.[179] He was assisted by two convict clerks.[180]

Robert Crawford, a son of Brisbane's agent in Scotland, had come to the colony with the new governor and he was appointed assistant principal clerk in the colonial secretary's

174. F.Goulburn to H.Goulburn, 21 July 1821, Catton Papers, Derby.
175. Berry to (?), 10 January 1823, Berry Papers ML UCMSS 315/5.
176. Brisbane to Bathurst, 1 May 1824, HRA i,X1,253-254.
177. King, op.cit., p.233.
178. "M.Robinson", ADB, Vol.2.
179. J.Atkinson, An Account of the State of Agriculture and Grazing in New South Wales (1826 and facsimile edition Sydney, 1975), Introduction by B.H.Fletcher, p.9.
180. List of Names of Persons holding Civil and Military Employments, 30 November 1821, HRA i,X,581; King, op.cit., p.238.

office in December 1821. Crawford considered Goulburn "an elegant man in both his appearance and manners and very clever".[181] Crawford was an ambitious young man and when he learnt that Atkinson intended to retire, he applied to Goulburn for the position.[182] Goulburn agreed but indicated that he wished to reorganize the responsibilities of the principal clerk.[183] Crawford remained principal clerk until 1826 when reorganization of the office by Darling and Macleay effectively demoted him and he resigned.[184]

With the appointment of the colonial secretary, greater regularity was introduced into administrative correspondence. Incoming letters were divided into important, departmental and miscellaneous, each arranged chronologically and memorials and petitions were kept alphabetically by year. Outgoing letters were divided into colonial, external and military correspondence.[185] The Colonial Office also demanded greater formality. Governors were ordered to preserve their official correspondence to hand to their successors.[186] Despatches were to be numbered, written on standard size paper and each despatch was to deal with only one subject.[187]

Goulburn interpreted his commission to mean that all government business must pass through his office in order to

181. R.Crawford to H.Crawford, 31 December 1821, Brisbane Papers GA Ardgowan 295.
182. Crawford to Goulburn, 31 July 1822, ibid., Ardgowan 294; R.Crawford to H.Crawford, 31 December 1821, 9 25 April 1822, ibid., Ardgowan 295.
183. Goulburn to Crawford, 12 September 1822, ibid., Ardgowan 294; King, op.cit., pp.237-238.
184. Darling to Bathurst, 27 January 1827, with encl., HRA i,X111,43-47; Darling to Hay, 3 February 1827, ibid., p.72.
185. A.Hutchins and B.Stuckey, "The Development of Correspondence Registration and Record Keeping Systems in New South Wales Government Departments 1788 - 1910", Library Association of Australia 13th Biennal Conference, Papers (2 vols., Sydney, 1965), Vol.2, pp.327-328; Richardson, op.cit., p.59.
186. Bathurst to Brisbane, 30 April 1822, HRA i,X,800.
187. Brisbane to Bathurst, 30 July 1824, HRA i,X1,336. A copy of Bathurst's missing despatch is encl. in Brisbane to Arthur, 16 September 1825, Arthur Papers ML A2166.

be official.[183] In May 1823 a government order directed that correspondence for the governor be sent through the colonial secretary's office. Though Bathurst and Forbes thought the order irregular, the Colonial Office legal adviser, James Stephen, supported it and this procedure was sanctioned under Darling's government.[189]

The Colonial Office had made no alternative provision for a secretary to the governor. J.T.Campbell and his predecessors had always enjoyed a private and confidential relationship with the governor who personally selected them. Brisbane had requested a private secretary before he left England but had been refused, presumably to avoid the expense of a new appointment.[190] Private secretaries had been appointed for colonial governors since 1785[191] and Brisbane was angry that the most insignificant governor in the West Indies was entitled to a private secretary yet he was not.[192]

The unusual situation in New South Wales did not escape parliamentary comment. During a debate on colonial services in 1824, Wilmot-Horton commented that "a private secretary (not public) was an indispensable adjunct to a West Indian Governor". He was supported by his predecessor, Henry Goulburn, who declared that governor's salaries were not sufficient for them to pay for their own secretaries. Their

188. Goulburn to Brisbane, 19 April 1824, HRA i,X1,258.
189. S.G., 29 May 1823; Bathurst to Brisbane, 23 August 1824, Bathurst Papers BM Loan 57/64,p.33; Forbes to Wilmot-Horton, 10 July 1824, Catton Papers, Derby; Stephen to Wilmot-Horton, 27 March 1825, HRA iv,1,593-594; Bathurst to Darling, 14 July 1825, HRA i,X11,18. See below.
190. J.Macarthur jr to J.Macarthur, 1 June 1821, Macarthur Papers ML A2911.
191. Manning, op.cit., p.191.
192. Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329.

antagonist, Joseph Hume, was not convinced. He failed to see why Britain should pay for private secretaries in Barbados or St Kitts when the governor of New South Wales had to manage without one.[193]

Brisbane's need for a private secretary was not simply a vice-regal whim. Severe rheumatism in both shoulders made writing a painful task.[194] Without secretarial assistance, Brisbane developed a chronic dislike for letter-writing and his procrastination obstructed public business. Matters were put aside until forgotten or confused.[195] When he did write, Brisbane's letters were almost illegible, frequently interrupted with consequent repetition and tangled phrasing. His aide-de-camp was too busy to assist him and although his sister-in-law helped with his personal correspondence, she was of limited assistance for confidential official matters.[196] The governor's constant residence at Parramatta intensified the problem since not only was Goulburn unavailable to help but Brisbane's absence from the capital increased the need for written communication with his officials.

The general administrative nature of the colonial secretary's office made it the logical heir to many of the small duties formerly done by the governor but which, in his absence at Parramatta, had to be done by someone else.[197] Brisbane's new policies for convict management and land distribution created new workloads as they required special documentation from the colonial secretary's office.[198]

193. P.D., 2nd series, 1824, Vol.10, cols.963-964.
194. Brisbane to Wilmot-Horton, 24 March 1825, HRA i,XI,556; Brisbane to Forbes, 26 February 1827, Brisbane Papers ML FM4/1626, Section 1.
195. Forbes to Wilmot-Horton, 27 May 1827, HRA iv,1,719.
196. Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329.
197. Forbes to Wilmot-Horton, 29 June 1825, Catton Papers, Derby.
198. See Chapters 3 and 5.

Brisbane was aware of the pressures which he created for the colonial secretary. There had been no clerical increase in the office for over fourteen years though the population and amount of work had multiplied eight times. Brisbane favoured a reorganization with a section for local affairs and another under Goulburn for correspondence with the Colonial Office.[199] In February 1824, Brisbane requested additional clerical staff for the colonial secretary and a private secretary for himself.[200] The Colonial Office agreed to a private secretary and another clerk.[201]

Goulburn was not by training an administrator but he had a mind for detail and was fairly efficient in dealing with the mass of business that passed through his office. An honest and well-intentioned man of irreproachable character, Goulburn was blamed for much that was "attributable to the circumstances".[202] The situation was one of transition. The governor lacked the confidential assistants which Macquarie and later Darling had.[203] The colonial secretary had only the briefest instructions which he interpreted as comparable to those of a secretary for state.[204]

Goulburn accepted Brisbane's style of government and performed the additional tasks that occurred due to the governor's absence or disinclination without alerting Brisbane to the inadequacy of the administration to function in the manner the governor assumed. In so doing, Goulburn effectively shielded Brisbane from the consequences of his

199. Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329.
200. Brisbane to Bathurst, 11 February 1824, HRA i,X1,226.
201. Bathurst to Brisbane, 18 August 1824, ibid., p.350.
202. Forbes to Wilmot-Horton, 6 February 1825, Catton Papers, Derby.
203. Macquarie had Campbell and Darling had his brother-in-law, Henry Dumaresq as their personal secretaries. "H.Dumaresq", ADB, Vol.1.
204. Forbes to Wilmot-Horton, 10 July 1824, Catton Papers, Derby; Brisbane to Bathurst, 26 January 1825, Brisbane Papers Scott Collection, Compartment 2, Bundle 6.

administration[205] and it was some time before the governor realized that there were serious problems.

Goulburn's major difficulty was in dealing with the people of New South Wales. In a penal colony, where even the free had few scruples about total honesty,[206] Goulburn had

> allowed himself to imbibe the unfortunate prejudice that everyone who came to Him did it with the intention of cheating him. 207

However, the quality of settlers was changing in the early 1820s. The increasing number of respectable free immigrants who presented themselves at the main office of the colonial government did not appreciate Goulburn's distrustful attitude nor his sarcastic wit.[208] Goulburn's personality was not suited to the public relations role that was now required. By nature taciturn and haughty, he could "never divest himself of his military ideas that settlers were to be treated like soldiers".[209] His enthusiasm for measures rested on their "abstract propriety" without consideration of their impact on those who would be affected by them and he had little respect for public opinion.[210]

Years later, Goulburn jotted down two phrases that throw light on his problems as colonial secretary:

> Virtue is the most prolific cause of the abuse of power.
> Matters of Government are not matters of feeling. 211.

205. Forbes to Wilmot-Horton, 14 August 1824, Catton Papers, Derby.
206. Forbes to Wilmot-Horton, 29 June 1825, ibid.
207. Brisbane to Bathurst, 26 January 1825, Brisbane Papers, Scott Collection, Compartment 2, Bundle 6.
208. Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329. See for example, Goulburn to Jacobs, 28 June 1824, CSOL 4/3511, p.553.
209. Brisbane to Bathurst, 26 January 1824, Brisbane Papers, Scott Collection, Compartment 2, Bundle 6.
210. Forbes to Wilmot-Horton, 29 June 1825, Catton Papers, Derby.
211. Goulburn, Notebook (no pagination, c.1828?), Goulburn Papers, Surrey County Record Office, Acc.319, Box B, 11/9/E, No.107.

The absence of the governor at Parramatta meant that there were many matters which Goulburn never had the opportunity to mention to Brisbane:

> In fact, if I occupied his attention in the one day of the week he visits Sydney with a detail of every particular, which had occurred during the preceding six, that day would never be long enough to enable me to obtain his commands on those cases upon which it is absolutely necessary to receive them. 212

Goulburn therefore used his discretion in dealing with matters which he considered to be routine. This was the way that Brisbane intended his administration to function - routine administration was to be handled by relevant officials without reference to the governor. The difficulty was that in the infant state of the administration and the uncertain procedures for many matters, there was considerable ambiguity as to what business was routine and therefore not for the specific consideration of the governor. The Macarthur family did not believe their legal appeal to be a matter of routine nor would most settlers accept that their requests for land or other favours were routine events.

Brisbane had left the colonial seal in Sydney for Goulburn to use at his discretion[213] with signed blank documents so that routine matters such as the expiration of a convict's sentence could be legalized if the governor was not present.[214] Whatever passed under the seal of the colony was an official act of the government. In the case of the Macarthur and Campbell appeal, the governor's approval was signified by the seal being attached even though Brisbane had

212. F.Goulburn to (H.Goulburn?), 16 August 1823, CO 201/169, f.450. Extract reprinted in HRA iv,1,493-494.
213. Ibid.; Richardson, op.cit., p.19.
214. Brisbane to Bathurst, 26 January 1825, Brisbane Papers, Scott Collection Compartment 2, Bundle 6; J.Lang, Reminiscences - Draft, ML A2244, p.15. Bathurst also left blank signed forms for his subordinates to use in his absence. N.D.McLachlan, "Bathurst at the Colonial Office 1812-1827: A Reconnaissance", Historical Studies, 13 (1969), p.494.

not seen the papers.[215]

Goulburn did not exercise this discretion impartially. He accepted one application for remission of spirit duties but refused another, both in the governor's name, without showing Brisbane either application.[216] Goulburn used considerable latitude as to when he forwarded a settler's request for land or how quickly he carried out the governor's instructions. His deliberate delays in finalizing John Macarthur's land grant caused serious opposition from the Macarthur family.[217]

Brisbane later believed that there were at least twenty instances in which Goulburn had exercised considerable, though perhaps not unjustified, discretion without reference to him.[218] It was generally accepted that the governor's decision alone was not effective. The colonial secretary's actions were decisive. Brisbane admitted that this situation had arisen because he had accepted plausible alternatives suggested by Goulburn. This undermined his authority as governor:

> Those very acts I had approved of and directed to be arranged by him had some obnoxious ingredient introduced by the Colonial Secretary which might have led individuals to infer that there was a great difference between the acts of my government and my original intentions respecting them, altho' I never condemned them but had allowed myself to be persuaded that his modification was better than my proposal respecting them. [219]

The belief that the colonial secretary wielded power to which he had no legitimate right inevitably antagonized fellow

215. Bathurst to Brisbane, 20 September 1824, with encls., HRA i,X1,359-367; Deposition of James Macarthur, 8 August 1823, ibid., p.367.
216. Icely to Bathurst, 15 March 1825, CO 201/167, ff.160-166; Moreton, Minute, n.d., ibid., f.164.
217. See Chapter 7.
218. Brisbane to Bruce, 12 May 1824, Brisbane Papers ML UCMSS 329.
219. Brisbane to Bathurst, 26 January 1825, Brisbane Papers, Scott Collection, Compartment 2, Bundle 6.

officials and settlers. These feelings developed into frustrations against Brisbane. A governor could be forgiven for measures which were "conscientious errors" but not for "indolent acquiescence" in surrendering his responsibilities to another.[220]

Those who complained that the governor had allowed Goulburn too much discretion pointed to the government order of 27 May 1823 in which the colonial secretary, in the governor's name, directed that all memorials and letters for the governor should be sent through the colonial secretary's office.[221] Bathurst commented that this notice appeared to be "the most extraordinary act of self-deposition of authority that any public man ever published". Whilst he hoped that it referred to routine matters only, he was horrified at the effect it would have on the governor's authority.[222]

The order itself was an important comment on the problems which faced Brisbane after eighteen months in office. Brisbane had intended that the order refer to applications for land grants. Many applications would be ineligible under various colonial regulations or further information might be required so clerical processing was necessary. Brisbane objected to Goulburn's omission of this reason. He wanted to repeal the notice but by May 1823 Goulburn was the only senior official who consistently supported the governor. Oxley, Wemyss and Bowman opposed Brisbane's policies or were

220. Forbes to Wilmot-Horton, 14 August 1824, Catton Papers, Derby.
221. S.G., 29 May 1823.
222. Bathurst to Brisbane, 23 August 1824, Bathurst Papers BM Loan 57/64,p.33.

in conflict with other officials. Brisbane had no advisers to whom he could turn for support. Isolated on one side by a disgruntled bureaucracy and by settlers clamouring for land and convict servants on the other, Brisbane could not risk alienating his most essential administrative official by repudiating the wording of the notice.[223]

Settlers and officials considered that the governor was only "a tacit and necessary instrumentality" in policy making:

> His scrupulous adherence to advice from proper sources is well known....it is not likely that he would at any time, except for very pressing reasons depart from his usual and wholesome practice. 224

Nevertheless, though Brisbane accepted the advice of his officials and relied on their competence to carry out policies, he insisted that he made the ultimate decisions:

> It has been my constant study night and day to weigh and digest well any new measure, before I allowed it to be carried into execution. 225

Brisbane emphatically denied that he had allowed Goulburn to influence his decisions, though he conceded that Goulburn's presentation of certain facts might have swayed his judgement.[226] In fact, Goulburn complained that Brisbane had not consulted him about policy matters since April 1823.[227]

Brisbane considered that Goulburn damaged his administration by delays and withholding information[228] but a far more serious matter was the advice that Goulburn gave the governor on issues

223. Brisbane to Bruce, 16 February 1824, Brisbane Papers ML UCMSS 329; Brisbane to Bathurst, 26 January 1825, Brisbane Papers, Scott Collection, Compartment 2, Bundle 6.
224. Australian, 9 June 1825.
225. Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329.
226. Ibid.
227. Goulburn to Brisbane, 8 March 1825, CSOL 4/3513, p.550.
228. Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329.

affecting the political stability of the colony. Goulburn had no official responsibility for the opinions that he offered the governor but, in view of his public office, he had a moral responsibility to ensure that his opinions were based on genuine consideration of the public welfare.[229] Goulburn allowed his personal feelings and prejudices to overrule his judgement. Chief Justice Forbes observed that Goulburn must have been aware not only that his advice was inexpedient but that it "placed at possible hazard the reputation and stability of the governor".[230]

Goulburn's behaviour was a result of his prejudices and temper[231] but it was also influenced by his friendship with Dr H.G.Douglass, a minor official who was unpopular with a number of influential colonists.[232] Common report named the colonial secretary and Douglass as the virtual rulers of the colony,[233] with Douglass acting as the "oracle and mouthpiece" of the secretary.[234] Goulburn's good intentions but poor judgement could be tolerated but not the use of Douglass as his agent.[235] In his support for his friend, Goulburn identified Douglass with the intimate decisions of the administration thereby alienating most other officials.[236]

Goulburn's least justifiable act concerned the governor's

229. Forbes to Wilmot-Horton, 29 June 1829, Catton Papers, Derby.
230. Ibid.
231. Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329.
232. See Chapter 7.
233. Lang to Macarthur, 19 November 1827, Macarthur Papers ML A2900.
234. C.Macarthur to King, 20 November 1822, King Papers ML A1976.
235. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.33.
236. e.g. Goulburn ordered that Douglass replace Oxley on the governor's official expedition to Bathurst. C.Macarthur to King, 20 November 1822, King Papers ML A1976.

reply to a request by the Presbyterians for government aid to build a kirk in September 1823. Brisbane had told Goulburn to prepare an encouraging reply but when the governor read the speech at the official meeting, it was an insulting refusal.[237] The colonial secretary had used his position of trust and responsibility to alter the governor's declared policy. He had taken this step because of his conflict with another official, Wemyss, who had insulted his friend Douglass.[238] Nor was the incident flattering to Brisbane. Whilst it was reasonable to delegate the preparation of a speech along specified lines, Brisbane should have corrected it before the official presentation. The fact that Brisbane did read and comment on the unsuitable phrasing yet did not alter it himself is even more condemning.[239] The incident showed the exent of Brisbane's trust in Goulburn. In spite of his public embarassment, Brisbane still believed that the colonial secretary must have had good reasons for changing his decision without informing him.[240]

In January 1824, Brisbane learnt from friends in England that the Colonial Office disapproved of his reliance on the colonial secretary.[241] This warning, in a letter dated July 1823, was probably a reaction to events in the colony in the latter part of 1822.[242] Whilst readily admitting that he had given Goulburn too much work with too little control, Brisbane was uncertain as to how the situation could be rectified.

237. S.G., 25 September 1823; Brisbane to Bathurst, 23 May 1825, with encl., HRA i,XI,607-609.
238. Lang to Macarthur, 19 November 1827, Macarthur Papers ML A2900. See Chapter 7.
239. Brisbane to Taylor, 29 January 1825, Catton Papers, Derby.
240. Brisbane to Goulburn, 10 February 1825, Brisbane's Letter Book ML A1559/3.
241. Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329.
242. See Chapter 7. The most condemnatory letter at this time was Jamison to Bathurst, 2 September 1822, CO 201/111,f.365.

Goulburn was neither incompetent nor hostile but by early 1824 Brisbane was increasingly concerned by Goulburn's quarrels with the settlers and his lack of enthusiasm for new measures, doubtless fearing additional burdens on his office. The quarrels created ill-feeling and Brisbane became part of that antagonism since he considered it necessary to support the colonial secretary whenever possible. Brisbane recognized that a crisis must eventually arise between himself and the colonial secretary but he was anxious to postpone it until he had learnt of the Colonial Office's reaction to complaints which settlers had already sent home.[243]

The breach occurred a few months later in mid-April 1824. The ostensible cause of their quarrel was Brisbane's inconsistency in communicating with his officials through the colonial secretary's office.[244] Brisbane, normally a mild-tempered man,[245] resented Goulburn's "intemperate and highly offensive style". Goulburn retreated into the strict limits of his commission and Brisbane appointed his brigade-major as his private secretary. He considered that this revoked the order of May 1823, though in fact most official business continued to pass through the colonial secretary's office.[246]

Behind the quarrel, tension had been increasing for months, in particular in Goulburn's relations with the

243. Brisbane to Bruce, 16 February 1824, Brisbane Papers ML UCMSS 329.
244. Brisbane to Bathurst, 1 May 1824, with encls., HRA i,X1,253-261; King, op.cit., pp.240-241.
245. Forbes to Wilmot-Horton, 29 June 1825, Catton Papers, Derby. Though Brisbane rarely quarrelled, he was very outspoken when he did lose his temper. He quarrelled violently with his trustees (see Chapter 1), with his observatory assistant Rumker (see Chapter 9), with a settler, Sir John Jamison (see Chapter 7) and with Goulburn.
246. Brisbane to Bathurst, 1 May 1824 with encls., HRA i,X1,253-261.

Macarthur family. A widespread but mistaken belief that Goulburn was a sympathetic associate of Macarthur conceals an important aspect of his quarrel with Brisbane.[247] There was mutual antipathy between Goulburn and Macarthur.

Brisbane did not understand the intensity of the bitterness between Goulburn and Macarthur. He assumed that it was an unfortunate misunderstanding that had arisen because Macarthur had taken offence at Goulburn's curt style of address.[248] Macarthur saw the colonial secretary as "powerful - cold blooded - malignant and oppressive"[249] and was convinced of the "secret hostility" of the colonial government, personified by Goulburn, to his projects.[250] This antagonism was rooted in Henry Goulburn's disapproval of Macarthur's part in the Bligh rebellion. His young brother in New South Wales tactlessly commented in favour of the deposed Bligh.[251]

Frustrated by Goulburn's delay in finalizing their large land grant, the Macarthur family exerted considerable pressure on Brisbane from early 1824 to break with the colonial secretary. James Macarthur informed the governor that

> Major Goulburn's actuating feeling was dislike and animosity towards His Excellency and a desire to lead him into measures that were likely to involve him in difficulty - that the blame would ultimately rest not upon Major Goulburn but upon His Excellency. [252]

Brisbane responded to this pressure but wished them to make

247. e.g. Watson in his introduction to HRA i,XI,xiv; Melbourne, op.cit., p.104; Currey, op.cit., p.124; M.Barnard, A History of Australia (Sydney, 1963), p.329.
248. Minutes of a conversation between William and James Macarthur and Brisbane, 5 February 1824, Macarthur Papers ML A2962.
249. J.Macarthur to J.Macarthur jr, 29 January 1823, ibid.
250. J.Macarthur to J.Macarthur jr, 12 February 1823, Macarthur Papers ML A2899.
251. J.Macarthur to J.Macarthur jr, 22 August 1823, ibid.
252. James Macarthur to J.Macarthur, 14 February 1824, Macarthur Papers ML A2962. See also Chapter 7.

their complaints against the colonial secretary direct to the Colonial Office.[253] Whilst Brisbane was anxious to reassert his authority over the colonial secretary, he was uncertain that alienating Goulburn would improve his administration.[254] The arrival of the new chief justice in March 1824 and Brisbane's confidence that he could work with Forbes undoubtedly altered the balance within the administration, encouraging Brisbane to assert his authority.

Goulburn believed that Brisbane was influenced at Parramatta by the Macarthur family and the governor's personal staff.[255] By 1824, there were strong pro-Macarthur elements in the governor's household which gave substance to these fears.[256] Goulburn believed that the settlers should approach the governor through his office and he was antagonistic to those who applied in person to the governor. The Macarthur family cultivated personal contacts, maintaining that this approach upheld the governor's personal authority.[257] Goulburn's actual insult to the governor was to criticize Brisbane for a personal meeting with Macarthur to discuss his land grant when a few months earlier he had ordered Goulburn to decline such an interview.[258] Goulburn, "having taken on himself the burden and responsibility of the government", saw Brisbane's spasmodic interference as a threat to the smooth running of day-to-day administration.[259]

253. James Macarthur to J.Macarthur, 14 February 1824, Macarthur Papers ML A2962.
254. Brisbane to Bruce, 16 February 1824, Brisbane Papers ML UCMSS 329.
255. H.Goulburn to Wilmot-Horton, 15 August 1824, Catton Papers, Derby; Jamison to Wilmot-Horton, 29 June 1824, CO 201/156,f.73.
256. Ovens was an old acquaintance of the Macarthurs. Fennell was a close friend of William and Edward Macarthur. J.Macarthur jr to E.Macarthur, 30 May 1821, Macarthur Papers ML A2911; J.Macarthur jr to James Macarthur, 30 April 1821, ibid. By 1824, Dr Macleod was also sympathetic. James Macarthur to J.Macarthur, 14 February 1824, Macarthur Papers ML A2962.
257. James Macarthur to J.Macarthur, 14 February 1824, Macarthur Papers ML A2962
258. F.Goulburn to Macarthur, 2 January 1824, ibid.; Brisbane to Bathurst, 1 May 1824, HRA i,X1,255,257.
259. Forbes to Wilmot-Horton, 14 August 1824, Catton Papers, Derby.

News of the quarrel between Brisbane and Goulburn came as no surprise to the colonists and there was general satisfaction and anticipation that the governor would take a more personal interest in the details of his administration.[260] Brisbane thought that his quarrel with Goulburn would lead to the removal of the colonial secretary.[261] Others considered that both the governor and the colonial secretary would be recalled.[262] Although Brisbane was urged by his personal staff to dismiss Goulburn,[263] it was not until January 1825 that Brisbane specifically asked the Colonial Office to remove Goulburn. This reticence was probably due to the strong support that the Goulburn family could exert at the Colonial Office. Brisbane wrote that Goulburn was a man of great ability but overpowered by his prejudices:

> In my humble opinion if Major Goulburn could be provided for better elsewhere it would heal many breaches in the colony. [264]

During the remaining year and a half of Brisbane's government, the changes to his administration were small but significant. Ovens, already brigade-major and acting chief engineer, was not pleased with the clerical duties of his new position as private secretary but Brisbane needed the assistance of someone whom he trusted.[265] He had earlier asked his friends to find a suitable scholarly gentleman

260. Forbes to Wilmot-Horton, 14 August 1824, Catton Papers, Derby.
261. Brisbane to Bruce, 12 May 1824, Brisbane Papers ML UCMSS 329.
262. R.Crawford to H.Crawford, 17 May 1824, Brisbane Papers GA Ardgowan 293. (The original letter was missing in 1975 but had been transcribed in the descriptive catalogue of the collection); J.Macarthur jr to James Macarthur, 14 November 1824, Macarthur Papers ML A2911.
263. Particularly by Ovens. Brisbane to Bruce, 27 June 1824, Brisbane Papers ML FM4/1626, Section 1.
264. Brisbane to Bathurst, 26 January 1825, Brisbane Papers, Scott Collection, Compartment 2, Bundle 6.
265. Brisbane to Bruce, 12 May 1824, Brisbane Papers ML UCMSS 329.

for his private secretary if the British government decided to allow him one.[266] In June 1824, Brisbane requested a captain of engineers to take permanent charge of the engineer's department.[267] These two appointments would allow Ovens to return to his duties as brigade-major.

Forbes approved of Ovens as Brisbane's private secretary. A private secretary to the governor was

> indispensably necessary - and until you appoint an executive council, it must be an responsible office. It will introduce many changes in the forms of administering the government, and most of them for the better. [268]

Nevertheless, in administrative terms, the joining of the offices of chief engineer and private secretary, however temporarily, was ill-considered.

The chief engineer through his control of convicts employed by the government and the private secretary through his confidential relations with the governor had considerable power:

> The Department of the Civil Engineer and the Private Secretaryship, united in the same person, had become the grand Engine of the Government, and had engrossed the duties of all the other Departments; while, in fact the unwieldy nature of the machine prevented its operation and caused a total stagnation in the Public Business. [269]

Ovens, like Goulburn, worked assiduously at his positions and his early death in December 1825 was blamed in part on his strenuous workload, a "sacrifice to an accumulation of duties altogether inconsistent one with another".[270]

266. Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329.
267. Brisbane to (Horse Guards?), 18 June 1824, Brisbane Papers ML FM4/1626, Section 1.
268. Forbes to Wilmot-Horton, 6 February 1825, Catton Papers, Derby.
269. Darling to Hay, 2 February 1826, HRA i,X11,148-149.
270. Mrs Brooks, Diary, 12 January 1826, NLA MS 1559/4.

> He was considered efficient in his office and his discretionary power accordingly became great. This naturally produced cares which would not have existed under a rigid accountability. 271

Goulburn had been jealous of the governor's personal staff and after Ovens's appointment as private secretary, relations between these two men were tense. Goulburn refused to accept official orders transmitted by the private secretary and insisted on the governor's specific instructions that he must do so.[272] The Colonial Office's approval for a private secretary gave post-facto authorisation to Ovens's responsibilities.[273] Since the duties of both the chief engineer and the colonial secretary covered a wide range of activities, the frequent overlapping of their duties led to conflict and obstruction.[274]

The quarrel between Brisbane and his colonial secretary did not result in the administrative paralysis which the Colonial Office had anticipated.[275] Relations between Brisbane and Goulburn were conducted with abrupt and icy formality for the remainder of their administration[276] but both men had a strong sense of duty. Although their strained relationship caused some inconvenience,[277] the colonial government continued to function and Forbes considered the work of Brisbane's government in its final year as most

271. Australian, 15 December 1825.
272. Goulburn to Brisbane, 16 June 1824, CSOL 4/3511, p.468.
273. Bathurst to Brisbane, 18 August 1824, HRA i,X1,350; S.G., 27 January 1825
274. Ovens to Brisbane, 8 March 1825, CSIL 4/1782,f.23; Brisbane to Goulburn, 9 March 1825, ibid., f.22; Ovens to Goulburn, 25 May 1825, CSIL 4/1784,f.158.
275. CO minute, 1825, CO 201/167,f.164. Compare Forbes to Wilmot-Horton, 10 July 1824, Catton Papers, Derby.
276. Forbes to Wilmot-Horton, 7 November 1824, Catton Papers, Derby; Scott to Wilmot-Horton, 27 September 1825, CO 201/168,f.178.
277. Brisbane to Bathurst, 23 July 1824, HRA i,X1,327-330; Brisbane to Wilmot-Horton, 24 March 1825, ibid., p.554.

efficient.[278] Brisbane began to take an active interest in the details of his administration. In July 1824, he took over the despatch correspondence from Goulburn but his queries indicated that the governor had little memory of which despatches had been received or answered.[279]

The weakness of Brisbane's system which was highlighted in his relations with the colonial secretary was echoed in his relations with the commissariat. Wemyss insisted that his authority as head of department precluded the governor from transmitting orders to anyone except through himself.[280] Wemyss's independence extended to major policy decisions which he made without consulting the governor. This was shown most clearly in the Almorah incident in 1825.[281] Whilst Brisbane succeeded in reasserting his control over the colonial secretary's office, the problem with the commissariat was more difficult because, though nominally under the governor's orders, the commissariat reported directly to the British Treasury.[282]

The administrative focus of the colonial government was the convict system[283] but by the 1820s the growing free population demanded greater administrative attention. Most officials now had both convict and civil duties but few had clearly defined responsibilities. The result of decades of improvisation was now apparent. Many areas of administration were the concern of two or three officials with over-lapping

278. Forbes to Wilmot-Horton, 22 March 1827, HRA iv,1,704.
279. Brisbane to Bruce, 4 July 1825, Brisbane Papers ML UCMSS 329; Brisbane to Goulburn, 3 July 1824, CSIL 4/1780,f.181; Goulburn to Brisbane, 20 September 1824, CSOL 4/3512,p.398; Goulburn to Brisbane, 1 November 1824, ibid., p.658; Goulburn to Brisbane, 25 January 1825, CSOL 4/3513,p.315; Goulburn to Brisbane, 10 March 1825, ibid., p.567.
280. Wemyss to Brisbane, 19 February 1823, Copies of Letters Sent and Received in the Colony 1821-1824, CS 4/5783,p.200.
281. See Chapter 6.
282. B.Fletcher, "Administrative Reform in New South Wales Under Governor Darling", Australian Journal of Public Administration, 38 (1979), pp.258-259.
283. See Chapter 3.

and interwoven responsibilities. Such a situation provoked jealousies and misunderstandings.[284] Until Brisbane's government, the administration had depended on the governor with little consultation by other officials.[285] Brisbane was willing to delegate his authority and the emergence of administration by department was a result of his style of government [286] and was reinforced by new senior appointments by the British government.

Brisbane's successor was a more experienced administrator and Darling had the advantage of long discussions with the Colonial Office about his government before he left England.[287] Darling criticized Brisbane's administration. There was no central control, particularly over departmental expenditure, and proper business procedures were neglected. Officials, accustomed to unrestrained independence, were reluctant to co-operate with each other or to accept Darling's authority.[288] Nevertheless, Darling did sympathize with Brisbane's situation:

> I trust it will not be supposed that I consider my Predecessor as the cause of the evils which have existed. On the contrary, I must think that the total want of means, the Departments being ill-organized and totally unequal to the Duties of a Government of the magnitude which this had now attained, render it impossible to conduct them in a satisfactory manner. Even with the advantage I possess in having the assistance of those who have long been accustomed to public Business, I have seldom had so troublesome a task. [289]

Judge Forbes agreed that in encouraging the independence

284. Forbes to Wilmot-Horton, 6 February 1827, HRA iv,1,686.
285. Cell, op.cit., p.63.
286. Forbes to Wilmot-Horton, 22 March 1827, HRA iv,1,704.
287. Fletcher, op.cit., p.250.
288. Darling to Hay, 2 February 1826, HRA i,X11,149; Darling to Hay, 10 February 1827, HRA i,X111,106.
289. Darling to Hay , 2 February 1826, HRA i,X11,151.

of his officials Brisbane had lost control of his administration. He appreciated Brisbane's theory of allowing his officials more initiative and considered that it had been an efficient government; however, the problem of overall authority was an unavoidable flaw and the system should not be repeated.[290]

Macquarie and Darling were both firm men with the "habits of business".[291] Brisbane lacked these qualities and his style of government arose from his inexperience and an excessive lack of confidence in his own judgement.[292] He believed that it was his duty to accept the advice of his officials on matters within their knowledge but there was no structure within which the governor could legitimately delegate his responsibilities without debasing his overall authority.[293] Yet for Brisbane

> to have acted solely by himself, he must have been first recast and have acquired habits and experience which only time could give. [294]

To his contemporaries, Brisbane's dependence on his officials seemed to imply lack of determination. The settlers were alarmed by his calm detachment from the problems of the colonial government. They feared he was indifferent to either their complaints or praise.[295] Most failed to recognize that his apparent complacency was a desire not to offend fragile tempers[296] and they underestimated the sense of duty and perseverance which drove Brisbane. In the face of daunting

290. Forbes to Wilmot-Horton, 22 March 1827, HRA iv,1,703-704.
291. Comment about Macquarie by Wellington, quoted in Gillespie, op.cit., p.41; Arthur to Darling, 10 January 1826, Arthur Papers ML A2165.
292. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44,p.32d; Forbes to Wilmot-Horton, 29 June 1825, Catton Papers, Derby.
293. Forbes to Wilmot-Horton, 6 February, 29 June 1825, Catton Papers, Derby.
294. Forbes to Wilmot-Horton, 6 February 1825, ibid.
295. H.Macarthur to King, 18 April 1823, King Papers ML A1976.
296. Australian, 3 February 1825.

opposition from within his administration and from the settlers, he implemented policies which he believed were a rational answer to the colony's problems. Brisbane was well aware of the bitterness that he aroused in

> carrying thro' what is expedient for the interests of the Crown...the settler in his bigotry and short-sighted policy had drawn a film over his eyes as to his real prosperity and happiness. 297

297. Brisbane to Craufurd, 1 May 1823, Brisbane Papers PRO PMG1/1.

Chapter 3 - The Convict Settlement.

Since its foundation in 1788, New South Wales had been considered by the British government primarily as a penal establishment. Though the instructions to the commissioner of inquiry in 1819 referred to its potential as a colony and the Colonial Office itself accepted the settlement's future as such, while ever transportation continued to New South Wales penal affairs had to be given priority:[1]

> The problem is (and it is no easy one) to blend colonial policy with punishment....and all arguments which have no reference to the situation in New South Wales as a penal colony necessarily can have no weight with the Government. [2]

Faced with increasing crime in the post-war years, the British government legislated to improve the efficiency of the penal system. Earlier statutes were consolidated and transportation replaced the death sentence for larceny offences.[3] New regulations ordered inspections and classification of prisoners in an attempt to preserve their health and improve their morals as well as ensure their punishment.[4] Detention aboard hulks moored in the Thames River was no longer a temporary measure and full sentences could be served there.[5] New South Wales and Van Diemen's Land remained the major destinations for transported convicts but prisoners could also be sent to labour on public works in

1. For other views on the foundation of the settlement see G.Martin (ed.), The Founding of Australia. The Arguments About Australia's Origins (Sydney, 1978); Bathurst to Bigge, 6 January 1819 in J.T.Bigge, Report of the Commissioner of Inquiry into the State of the Colony of New South Wales (1822 and facsimile edition Adelaide, 1966), p.3; The Times, 8 July 1823.
2. CO minute, Curtis to Wilmot-Horton, 9 December 1824, CO 201/155, f.304.
3. A.G.L.Shaw, Convicts and the Colonies (Melbourne, 1977), pp.131-132.
4. Great Britain Parliament, Statutes at Large, 4 Geo.1V,c.64 (10 July 1823); B.Fitzpatrick, British Imperialism and Australia 1783-1833 (1939 and Sydney, 1971), p.377.
5. Great Britain Parliament, Statutes at Large, 5 Geo.1V,c.19 (12 April 1824)

any colony.[6] In 1824 the renewal of the transportation acts emphasized that transportation to New South Wales and Van Diemen's Land was a severe punishment.[7]

During the Napoleonic War only thirty per cent of those sentenced to transportation left Britain and the remainder were kept in the hulks. From 1818 and throughout the 1820s, this proportion doubled and sixty to seventy per cent left Britain.[8] Barely 1,000 convicts were sent to New South Wales each year before 1815 but in 1818 more than 3,000 arrived, though the figures dropped to about 2,500 in 1819 and 1820.[9] The sudden increase caused severe problems for Macquarie in providing superintendence, discipline and employment without increasing expenses. In Britain, critics such as H.G.Bennet feared that excessive transportation would destroy its efficiency.[10] In 1822 Bathurst acknowledged that the increased number of convicts had contributed to the failure of Macquarie's convict policies.[11] A few months later, Bathurst informed Brisbane that convicts would be sent to other colonies, reducing the pressure on New South Wales.[12]

Between 1821 and 1826, the number of convicts arriving in New South Wales fell to about 1,600 annually, a drop of almost 1,000 on the peak years of 1818-1820.(See Table 1)

6. Great Britain Parliament, Statutes at Large, 4 Geo.1V,c.47 (4 July 1823).
7. Ibid., 5 Geo.1V,c.84 (21 June 1824); P.D., 2nd series,1824, Vol.11, cols. 1092-1093.
8. Shaw, op.cit., p.150.
9. Ibid., p.365.
10. H.G.Bennet, A Letter to Earl Bathurst...on the Condition of the Colonies of New South Wales and Vandieman's Land (London, 1820), pp.111-112.
11. Bathurst to Macquarie, 10 September 1822, HRA i,X,793-794.
12. Bathurst to Brisbane, 30 May 1823, HRA i,X1,86.

Table 1. Convict Arrivals in New South Wales, 1821-1825.[13]

Year	Male	Female	Total
1821	1,528	130	1,658
1822	1,522	62	1,584
1823	1,464	199	1,663
1824	1,006	147	1,153
1825	1,544	366	1,910

The substantial fall in 1824 was due to the transportation of about 400 convicts to Bermuda to work in the dockyards.[14] In 1825, a large number of women were transported, more than any single year since the settlement had been founded. Total convict arrivals in 1825 were the highest in five years.[15]

Transportation was intended to provide a severe punishment and frightening deterrent at a moderate cost. Punishment by exile affected only those who were removed from their families and its example as a deterrent to crime was handicapped by the distance of the place of punishment. Expenses varied with relative costs and numbers but had been declining per capita since 1810 though overall costs continued to rise.[16] Concern that transportation had become inefficient and expensive determined attitudes to convict management in the 1820s.

Sir Thomas Brisbane's ideas on convict management were based on his theories of political economy. His ambition was to reduce the expense of the convict establishment but he also wished to improve the moral condition of the convicts and stimulate the activities of the settlers:

13. Shaw, op.cit., p.366.
14. Ibid., p.138.
15. Ibid., pp.363-366.
16. Ibid., pp.38-57,98-99.

> No person appears to me to have properly considered this colony...certainly nothing can be more reasonable than to apply convict labour to convict support! There are many paradoxes in this colony, but what is not the least extraordinary is the reflection that it is the government that supports the people, in place of the people the Government. [17]

Congregating the convicts in the new barracks in Sydney encouraged a body of non-productive consumers.[18] All convicts, both male and female, except the sick, should be employed in useful labour which would cover their expenses. Brisbane's aim was self-sufficiency for all convict establishments.[19]

Convicts were either under the immediate control of the government or were assigned to the settlers. The object was regular employment under careful supervision. The proportion of convicts in government service or in assignment determined government expenses since assigned convicts were fed and clothed by their masters. Brisbane wanted to increase the proportion in assignment and the productivity of those who remained with the government.

At the close of Macquarie's government, convict affairs were the responsibility of the principal superintendent of convicts and the chief engineer. William Hutchinson had been superintendent of convicts since 1814. He assigned convicts to settlers and compiled records of the work performed by the government gangs. The chief engineer was generally selected from the regiment stationed in the

17. Brisbane to Craufurd, 18 May 1822, Brisbane Papers PRO PMG1/1.
18. Brisbane to Bathurst, 29 November 1823, HRA i,X1,181.
19. Brisbane to (?), 31 March 1823, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Wilmot-Horton, 31 January 1825, Catton Papers, Derby.

colony and Major George Druitt had been appointed by the governor in 1819. He was responsible for public works, the supply of construction materials and the management of the convict gangs which worked on these projects. Druitt's close working relationship with Hutchinson and his personal friendship with Macquarie ensured their control of convict labour in Sydney.[20] Outside Sydney, the distribution of the convicts was in the hands of the local magistrates who resented the authority of Hutchinson and Druitt and were anxious to maintain their local patronage and independence.[21]

Bigge disapproved of this system. The superintendents and overseers were self-interested and incapable of compelling the convicts to perform useful work.[22] Hutchinson had been a convict and his extensive patronage of convict labour was incongruous with this background.[23] Efficient convict management required co-ordination between the central officers in Sydney, the district magistrates and the overseers. Bigge recommended a free superintendent to manage this system and this was the first appointment made by the Colonial Office after he submitted his report.[24] Frederick Hely was given the position in January 1823 but he did not arrive in New South Wales until early 1824.[25] During this period, Brisbane restructured much of the convict system.

20. Bigge, New South Wales, pp.18-19,28-31,52-53; J.Ritchie, The Evidence of the Bigge Reports (2 vols., Melbourne, 1971), Vol.1. Oral Evidence, p.1; "G.Druitt", "W.Hutchinson", ADB, Vol.1
21. Bigge, New South Wales, p.19,53.
22. Ibid., p.58.
23. Ibid., p.166.
24. Ibid.
25. Bathurst to Brisbane, 1 January 1823, HRA i,X1,1; S.G., 1 January 1824.

In September 1822, Bathurst forwarded Bigge's first report on convict management to Brisbane.[26] The governor replied promptly in April 1823, detailing his anticipation of many of the commissioner's recommendations.[27] By then, Bathurst was also aware of Brisbane's early changes and privately agreed that they were an improvement on Macquarie's system.[28]

The similarities between Brisbane's measures and Bigge's recommendations were most apparent in areas which had been frequently criticized. Bigge had not transmitted his opinions to Brisbane[29] but the general trend of the suggestions made to the commissioner had been assessed by the colonists themselves. When the new governor arrived, several of the leading settlers presented him with copies of the information that they had given Bigge a year earlier.[30] John Macarthur and Sir John Jamison were among those whom Bigge named as influential sources and they were prominent in offering their views to the new governor.[31] The general approval for Brisbane's early policies suggested that those measures were based on a consensus of the opinions

26. Bathurst to Brisbane, 9 September 1822, HRA i,X,784-790.
27. Brisbane to Bathurst, 28 April 1823, HRA i,X1,74-83.
28. Bathurst to Murray, 11 November 1822, Bathurst Papers BM Loan 57/64, p.15.
29. Brisbane to (?), 13 December 1822, Brisbane Papers ML FM4/1626, Section 1.
30. Jamison to Bathurst, 2 September 1822, CO 201/111, f.365; J.Macarthur, Suggestions for the Development of the Colony, 19 December 1821, Macarthur Papers ML A2897; J.Macarthur, A Memorandum to Sir Thomas Brisbane on Convict Management, (January, 1822?), ibid.
31. Jamison to Bathurst, 2 September 1822, CO 201/111, f.365; J.Macarthur, Suggestions for the Development of the Colony, 19 December 1821, Macarthur Papers ML A2897; J.Macarthur, A Memorandum to Sir Thomas Brisbane on Convict Management, (January 1822?), ibid.; Bigge, New South Wales, p.156.

of the settlers themselves.[32] For Brisbane, lacking advice from the Colonial Office, the opinions of those consulted by Bigge were the logical source for the policies which the commissioner would recommend.

Within three weeks of Brisbane taking office, Hutchinson was informed that, in view of the "variety and complications" of his duties, he was relieved from mustering convicts on their arrival and distributing their labour.[33] This effectively removed Hutchinson's access to information about a convict's skills and the patronage of distributing such labour. These duties were placed under the governor's more immediate supervision and the colonial secretary's office became responsible for assignment, records of sentence, changes of employment, return to government service, punishment and releases.[34] Other duties, such as supplying wool to the Female Factory at Parramatta, were transferred to the commissariat.[35] Although queries about convicts were still referred to Hutchinson,[36] when he attempted to assign two convicts to Major Druitt, he was abruptly reminded that assignments must pass through the secretary's office.[37]

Hutchinson retained his office until Hely replaced him in 1824 but the change of personnel did not increase the superintendent's authority. The important duties of assignment and records remained with the colonial secretary

32. Berry to Barnard, 15 February 1822, Berry Papers ML UCMSS 315/5; Jamison to Bathurst, 2 September 1822, CO 201/111, f.365.
33. Goulburn to Hutchinson, 18 December 1821, CSOL 4/3504A, p.166.
34. Ibid.; Brisbane to Bathurst, 28 April 1823, HRA i,X1,76-77.
35. Goulburn to Hutchinson, 12 January 1822, CSOL 4/3504A, p.275.
36. Goulburn to Hutchinson, 19 January 1822, ibid., p.322.
37. Goulburn to Hutchinson, 27 February 1822, ibid., p.492. Goulburn was acting on information supplied by H.G.Douglass. Douglass to Goulburn, 22 February 1822, CSIL 4/1756, f.33. See Chapters 2 and 7.

and Hely's duties were mainly supervisory. In January 1825, Hely complained that he had not been informed of changes in the regulations for runaway convicts though it was his duty to compile such information.[38] When Darling took office in 1826, he restored the time-consuming task of processing applications for convict servants to the superintendent, though he was wary of increasing his authority.[39]

The downfall of Macquarie's chief engineer was more spectacular than the pruning of Hutchinson's authority. To the new governor, Druitt personified official corruption and military dishonour[40] but, to other officials and settlers, the attack on Druitt was a symbolic rejection of Macquarie and his policies. The Reverend Samuel Marsden saw Druitt's management of the convicts as an extension of Macquarie's social encouragement of former convicts.[41] In early January 1822, Druitt was ordered to take leave of absence following charges by a convict of corruption and misappropriation of government labour and property. Druitt's duties were divided between Hutchinson and the assistant engineer, Lieutenant Croker, until February 1822 when John Ovens, Brisbane's brigade-major was appointed acting chief engineer.[42]

The convict gangs in Sydney were housed in the Hyde Park Barracks and the Carters' Barracks. These establishments

38. Hely to Goulburn, 5 January 1825, CSIL 4/1784, f.274.
39. Darling to Arthur, 15 January 1826, Arthur Papers ML A2167; Darling to Hay, 2 February 1826, encl., HRA i,X11,153.
40. Brisbane to Craufurd, 9 March 1822, Brisbane Papers PRO PMG1/1. See Chapter 2.
41. Marsden to Bigge, 11 February 1822, ML BT Box 27, pp.6519-6521.
42. Goulburn to Druitt, 8 January 1822, CSOL 4/3504A, p.248; Goulburn to Field, Wylde and Wemyss, 18 January 1822, ibid., p.338; S.G., 1 February 1822; Druitt to Bathurst, 18 July 1822, with encls., CO 201/111, f.180 ff.

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soon felt the authority of the new government. William Orrell, superintendent of the Carters' Barracks, had been praised by Bigge but in January 1822 he was dismissed for irregularities in his management and was replaced by William Elyard, a recently arrived surgeon.[43] John Connor, superintendent of the Hyde Park Barracks, received a swift reprimand for allowing 100 convicts in his charge to sign a memorial in defence of Druitt.[44]

Macquarie attempted to provide Druitt with evidence that he had acted with the governor's approval[45] but Druitt claimed that the investigation of his affairs was delayed until Macquarie had left the colony so that the former governor could not testify in his favour.[46] Druitt's guilt was assumed by many but the investigation produced no real conclusion.[47] Bigge had not suggested possible corruption by Druitt and he found no evidence of corruption by Hutchinson.[48]

Within four months of taking office, Brisbane's administration had disgraced and displaced Macquarie's officials at all levels of convict management. The colonial secretary's control was efficient and strict and Goulburn repelled any encroachment by the acting chief engineer on his management of convicts assigned to settlers.[49]

43. Bigge, New South Wales, p.24; Goulburn to Orrell, 8 January, 1 February 1822, CSOL 4/3504A, p.250,374.
44. Goulburn to Connor, 21 January 1822, CSOL 4/3504A,p.326; Petition on behalf of Major Druitt by Prisoners at Hyde Park Barracks, n.d. (1822?), CSIL Memorials re:Land 4/1830.
45. Macquarie to Druitt, 21 January 1822, CSIL 4/1754,f.161.
46. Druitt to Bigge, 19 July 1822, ML BT Box 27, p.6668.
47. Marsden believed that the longer the investigation was delayed the greater the probability that no action would be taken and this proved to be so. Marsden to Bigge, 29 January 1822, ML BT Box 27, p.6688.
48. Bigge, New South Wales, p.166.
49. Goulburn to Close, 20 December 1823, CSOL 4/3510, p.19.

Brisbane did not wait for the restructuring of the administration before introducing new policies. An order published in the Sydney Gazette of 8 December 1821 invited settlers wanting convict field labourers to apply at the colonial secretary's office. Preference would be given to those who had been waiting the longest and who had maintained other convicts free of expense to the government.[50] This was a good conciliatory move because the settlers believed that the colonial government had retained convicts who were experienced in farming or had mechanical skills and this had caused great dissatisfaction.[51] The preference for those who already employed convicts was the first indication of a constant emphasis in Brisbane's policies. The new administration would favour those who helped by supporting convicts and reducing the cost of the penal establishment.

On the arrival of a convict ship, the convicts were mustered and inspected by the governor, the lieutenant-governor or the colonial secretary and enquiries were made as to their treatment and occupations.[52] After segregating those who had been transported for the second time, the remainder were distributed according to their skills and colonial labour requirements.[53] Convicts who were suitable for immediate assignment were distributed according to a list kept by the colonial secretary which registered the name of the settler and the number and type of convicts that he needed. Distant settlers submitted their requirements to their local magistrates

50. S.G., 8 December 1821.
51. Lowe to Bigge, 10 July 1820, quoted in J.Ritchie, The Evidence to the Bigge Reports (2 vols., Melbourne, 1971), Vol.2. Written Evidence, p.50; Howe to Bigge, 22 January 1821, ibid., p.59.
52. Bigge, New South Wales, pp.14-15; Brisbane to Bathurst, 28 April 1823, HRA i,XI,75; S.G., 13 March, 4 September 1823; Brisbane to Goulburn, 4 May 1825, CSIL 4/1786,f.71.
53. Brisbane to Bathurst, 28 April 1823, HRA i,XI,78; Brisbane to Bathurst, 14 May 1825, encl., ibid., p.573.

who forwarded a list to the colonial secretary [54] and there were accusations that preference was given to Sydney residents who were assigned the best convicts.[55]

Each month the magistrates compiled a return of convicts within their district, noting those returned to government or reassigned to another settler.[56] Convicts allocated to a particular district were generally accompanied by police constables and lodged in gaol until they were assigned but there were instances of newly arrived convicts being given the direction of their master and sent on their way alone. They arrived in a miserable condition, ragged and hungry after days on the road.[57]

Under Macquarie, a settler had to provide his assigned convicts with food, clothing, shelter and wages of £10 per annum, generally paid in goods and luxuries such as tea, sugar, tobacco or spirits. Anticipating Bigge's criticism, Brisbane repealed Macquarie's order though the settlers were still responsible for ensuring that their convicts were fed and clothed and received religious and medical attention.[58] Nevertheless, the customary wage continued. Most settlers believed that their convicts would not work efficiently unless luxuries or wages were provided.[59] The maintenance of a convict was thus a real expense to the settler, especially when the quality and quantity of the work were uncertain. New settlers had been relieved of this expense and their convicts were

54. Brisbane to Bathurst, 28 April 1823, HRA i,X1,76.
55. J.Atkinson, An Account of the State of Agriculture and Grazing in New South Wales (1826 and facsimile edition, Sydney 1975), pp.119-120.
56. Monthly Returns of Assigned Convicts, Miscellaneous Convict Returns 1822-1825 CS-SB 2/8283.
57. Bigge, New South Wales, p.15; Atkinson to Goulburn, 29 March 1823, CSIL 4/1770,f.187.
58. Bigge, New South Wales, p.75,77,168-169; S.G., 12 July 1822, 14 August 1823; Brisbane to Bathurst, 14 May 1825, HRA i,X1,578.
59. J.Atkinson, op.cit., pp.112-113; Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.25.

fed from the government stores for a certain period. This had been fixed at six months in 1814 but in 1824 Bathurst ordered this indulgence to cease.[60]

Bigge believed that there was more work for convicts with the opulent settlers who could afford to pay the wages and luxuries required to make the men work satisfactorily.[61] The number of convicts employed by a settler varied but in the early 1820s the larger ones had fifty or more convicts a year.[62] Assigned convicts changed frequently as settlers returned unsatisfactory labourers and took others. In part, this was because many convicts came from urban areas and were not accustomed to farm work.[63] Convicts were returned with worn-out clothes which the government had to replace. Brisbane suggested that settlers should be compelled to keep assigned convicts for at least six or twelve months before exchanging them.[64] Governors King and Macquarie had tried to enforce similar restrictions without success.[65]

From 1823, there were no problems in distributing convicts and by 1825 settlers complained that they could not obtain sufficient convict servants.[66] As many as possible had been distributed but there had been fewer convict arrivals. In November 1825, the government announced that there were no convicts available for assignment.[67] The colonial secretary

60. Bathurst to Macquarie, 3 February 1814, HRA i,VIII,130; Macquarie to Bathurst, 7 October 1814, ibid., p.303; Bathurst to Brisbane, 6 November 1824, HRA i,XI,413.
61. Bigge, New South Wales, p.76.
62. W.Lawson, Statement of Convicts, 21 May 1823, CSIL 4/1771, f.313; A.Bell, Statement of Convicts 1822-1824, n.d., CSIL 4/1781, f.390; W.Howe, Statement of Convicts, 1824, ibid., f.393.
63. Bigge, New South Wales, p.75.
64. Brisbane to Wilmot-Horton, 31 January 1825, Catton Papers, Derby; Brisbane to Goulburn, 20 January 1825, CSIL 4/1785, f.44.
65. Bigge, New South Wales, p.75.
66. Brisbane to Craufurd, 1 May, 21 June 1823, Brisbane Papers PRO PMG1/1; Brisbane to Goulburn, 20 January 1825, CSIL 4/1785, f.44.
67. Goulburn to Brisbane, 31 January 1825, CSOL 4/3513, p.343; S.G., 17 November 1825.

calculated that he had applications from settlers for 1,611 convicts which he had not been able to supply.[68]

Strict watch was kept to prevent irregularities in the use of convict labour. The prosecution of the Reverend Samuel Marsden for allowing his assigned servant to work as a free man was the most public instance but it was not an isolated case.[69] Other magistrates, such as the Reverend Henry Fulton, were rebuked for giving permission to convicts to work at their trades in the towns.[70] Yet many of the old practices continued. It was still customary for free women to have their husbands assigned to them despite Bigge's general prohibition against the assignment of convicts in towns or to settlers with less than fifty acres.[71]

As well as encouraging general assignment, Brisbane introduced schemes to distribute specific types of convict labour. New regulations in the Sydney Gazette of 22 December 1821 fixed a wage of £25 per annum for overseers of convict gangs in place of convict servants previously assigned to them. Their wages would be paid from a hire charge imposed on the services of convict mechanics. Instead of the gratuitous and unsystematic assignment of the most desirable convict labour, the colonists now had to pay 3s 6d per week to employ convict mechanics.[72]

68. Goulburn to Stewart, 5 December 1825, The Governor - Copies of Letters Received 1822-1825, AONSW 4/1672, p.50.
69. Shaw, op.cit., p.193; Brisbane, Forbes and Scott to Bathurst, 10 August 1825, HRA i,XI,717-781. See Chapter 7 for other aspects of the Ring case.
70. Goulburn to Fulton, 8 May 1823, CSOL 4/3508, p.264; Douglass to Goulburn, 29 September 1823, CSIL 4/1768, f.183; Goulburn to Parramatta Magistrates, 4 November 1823, CSOL 4/3509, p.513.
71. Goulburn to H.Macarthur, 18 July 1825, CSOL 4/3515, p.57; Bigge, New South Wales, pp.157-158.
72. S.G., 22 December 1821.

This regulation removed two complaints against Macquarie's system. One was the accusation that the government monopolized the convict mechanics for its public works programme.[73] The second was the system of paying overseers of government convict gangs with convict servants and additional rations instead of a full cash wage. The assigned convict lived and worked with little supervision and paid a proportion of his wages to the overseer.[74] Many of the overseers were themselves convicts and it was inconsistent with the aims of transportation to allow convicts to have convict servants. Bigge recommended the immediate substitution of cash payments but both Macquarie and Druitt objected to the additional expenditure.[75]

The statistics collected by Bigge in 1820 indicated that the government had retained 65.6 per cent of the convict mechanics who had arrived since 1814 and Bigge was critical that these men had not been supplied to the settlers. Yet there is strong evidence that settlers, both large and small, employed as many skilled convicts as their enterprises required and that seasonal conditions since 1815 had reduced the demand for convict labour.[76]

By March 1822, Brisbane calculated that he had distributed nearly 200 mechanics under the new scheme.[77] Between late

73. Bigge, New South Wales, p.19,51-52.
74. Ibid., p.54,58-60.
75. Ibid., pp.59-60; Druitt's evidence, 27 October 1819, Ritchie, Bigge - Oral Evidence, pp.2-3.
76. T.G.Parsons, "Governor Macquarie and the Assignment of Skilled Convicts in New South Wales", JRAHS, 58 (1972), pp.84-88; T.G.Parsons, "Does the Bigge Report Follow from the Evidence?", Historical Studies, 15 (1972), pp.268-275; Shaw, op.cit., pp.91-92.
77. Brisbane to Bruce, 18 March 1822, Brisbane Papers ML FM4/1626, Section 1.

December 1821 and January 1825, 1,124 bonds were taken out for convict mechanics.[78] Their occupations included most skilled trades with high demand for shoemakers, tailors, blacksmiths, carpenters, sawyers, bricklayers and stonemasons. The period of hire varied according to behaviour and competence. Bigge had insisted that the settlers outside Sydney required convict mechanics and had also recommended that the tradesmen living in the towns be deprived of convict mechanics because of the bad influences upon convicts in the towns.[79]

These comments were not supported by the demand for convict mechanics once they became readily available under Brisbane's scheme. Most mechanics were required for Sydney and Parramatta and the regional centres of Windsor, Liverpool and Newcastle. In 1823, only one-quarter of the mechanics were hired for rural districts; in 1824, a year of low transportation, fewer convicts were hired and a smaller proportion, only nineteen per cent, were required in rural areas.[80]

Brisbane considered that his scheme removed the mechanics from Sydney[81] but the nature of their skills kept most of them in the highly populated areas and their reputation for bad behaviour was as evident in 1825 as it had been to Bigge five years earlier. The comparative scarcity of skilled labour meant that the convict mechanics could demand exhorbitant wages to ensure competent work. In both government and private

78. Register of Artificers and others who have been Overseers' Men who are assigned in terms of the Government Order of 22 December 1821, 1821-1825 AONSW 4/4520.
79. Bigge, New South Wales, pp.51-52,158.
80. Register of Artificers and others 1821-1825 AONSW 4/4520; Parsons, "Bigge Report", p.274.
81. Brisbane to Bathurst, 17 January 1825, HRA i,X1,472.

employment, they were the hardest group to supervise because of the diversity of their tasks. Brisbane knew that they were frequently dishonest and dissolute and in October 1824 he reported that there were more than 200 convict mechanics serving sentences at Port Macquarie for offences committed in the colony.[82]

Convict mechanics were often hired by their families, especially their wives, and were able to establish a business, the most common being as shoemakers.[83] Women required a co-signer as surety if they took out a bond for a mechanic. Some of the convicts were able to pay 3s 6d per week to work for themselves, as was the case with three early pottery manufacturers, William Martin, John Moreton and Jonathan Leak.[84] In 1825, Leak objected that he still had to pay his weekly hire even though he had a ticket of leave.[85]

Problems were caused by the inadequate classification of convicts. It was not always clear if a convict was a mechanic and deliberate misrepresentation added to the confusion. Labouring men were sometimes assigned as mechanics and vice-versa. There were complaints when this occurred in regular assignment and settlers found that they were expected to pay for a convict who had been assigned as a common labourer, not as a skilled man.[86]

New settlers objected to paying for skilled labour which established settlers had been able to use at no cost.[87] In 1825,

82. Brisbane to Bathurst, 29 October 1824, HRA i,X1,385-386.
83. e.g. in 1824, Mary Onslow, Mary Thompson, Elizabeth Cain, Mary Newman and Jane Smith hired relatives as shoemakers. Other popular trades were coopers, tailors, bakers and sadlers. Register of Artificers and others, 1821-1825 AONSW 4/4520.
84. Ibid.
85. Leak to Brisbane, n.d. (1825?), CSIL 4/1789, f.98.
86. Atkinson to Goulburn, 4 May 1823, CSIL 4/1771, f.276.
87. Campbell to Goulburn, 11 July 1822, Clearing Gangs 1822-1823, CS-SB 4/7014, f.209.

"An Emigrant" commented that 3s 6d a week was too expensive for settlers though he believed that the tradesmen in the towns could afford it.[88] Some smaller colonists also found it difficult to pay. Mary Earle, a colonial born woman, had hired her husband, a tailor, in 1824 but in the following year she complained that she could no longer afford the payments and wished to have her husband assigned to her as a common labourer.[89] Although approving of the greater availability of mechanics, settlers who already supported fifteen or twenty convicts objected to paying the hire.[90]

Obtaining payment for the mechanics became a serious problem. Each quarter, public announcements advertised that failure to pay for convict mechanics would lead to their recall.[91] In January 1824, the colonists were warned that unless defaulted payments from December 1822 were paid within fourteen days legal action would be taken.[92] In September 1824, 174 masters owed payment for 244 mechanics, many for at least two years.[93] The defaulting settlers included prominent magistrates and landowners such as J.T.Campbell who had not paid for three mechanics for two years and William Cox who owed money for five men for nine months. Leading former convicts such as Simeon Lord had not paid for his five sawyers in two years and Joseph Underwood owed money for three coopers for two years.[94]

88. Australian, 13 January 1825.
89. Register of Artificers and others, 1821-1825 AONSW 4/4520; Earle to Goulburn, 4 July 1825, CSIL 4/1787, f.6.
90. J.Atkinson, op.cit., p.51.
91. e.g. S.G., 26 April 1822; Weekly Commercial Express, 22 August 1825.
92. S.G., 8 January 1824.
93. Defaulters of payment for convict tradesmen, September 1824, Assignment of Convicts 1822-1824 CS-SB 3821.1
94. Ibid.

When William Cox received notice of the recall of his mechanics, he replied that his failure to pay had been due to neglect rather than opposition to the system and he was willing to pay the amount due to keep the men.[95] Most defaulters were not so co-operative. Almost eighty per cent of the income from the hire of mechanics in 1824 was collected by a lawyer, C.H.Chambers, acting on behalf of the government.[96] Among those prosecuted for non-payment were former deputy surveyor-general James Meehan and the merchant F.E.Forbes.[97]

There are no complete returns of the income from the hire of convict mechanics and the figures that are available are confused by changes in the accounting systems. A composite of these statistics is in Table 2.

Table 2. Revenue from the Hire of Convict Mechanics, 1821-1825.[98]

July - September 1822	$2,357
January - December 1823	$8,421
January - December 1824	$9,745
January - December 1825	$8,503 ($6,853)

Brisbane calculated that 408 mechanics hired in 1824 would earn £3,712 ($17,268).[99] In late 1825, he referred to an income of £3-4,000 from the mechanics as a "very eligible source of revenue".[100] The returns in Table 2 show that the colonial government received little more than half that amount. Over 300 bonds were issued in 1823 but the income was equivalent to only 200 mechanics, though a proportion would not have

95. Cox to Goulburn, 17 October 1824, CSIL 4/1780, f.316.
96. Colonial Fund 1824, S.G., 3 October 1825.
97. C.H.Currey, Sir Francis Forbes (Sydney, 1968), p.100.
98. For changes in accounting, see Chapter 5. I have used a conversion rate of 4.3s (4s 4d) as equivalent to $1, though the rate varied from 4s to 5s. Colonial Fund, Quarter ending 31 December 1823, S.G., 14 February 1825; Colonial Fund 1824, S.G., 3 October 1825; Colonial Returns 1823, 1825. Alternative figure for 1825 from Darling to Bathurst, 9 February 1827, encl., HRA i,XIII,92.
99. Brisbane to Bathurst, 17 January 1825, encl., HRA i,XI,473.
100. Brisbane to Harrison, 10 October 1825, Brisbane's Letter Book ML A1559/3.

been hired for a full year.

Despite the poor financial response, Brisbane was satisfied that the returns were adequate for the purposes of the scheme.[101] Bigge had calculated that there were 107 overseers in New South Wales who should receive cash payments. Only thirty-eight were free men.[102] Brisbane was not aware of the number of overseers who would require cash payments when the new regulations were announced,[103] and the situation remained imprecise, complicated by the high turnover of overseers. Not all received £25 as fixed by Brisbane's regulations; some were paid considerably more, others received as little as £10 per annum. The most complete figures, for 1824, show that only thirteen overseers were employed for a full year at £25, compared with fourteen for a six month period and eighteen for three months.[104] The periods of service were equivalent to the full yearly employment of thirty-six overseers, a comparable figure to the number of free overseers in 1820. These salaries required only £900 per annum or $4,500, a sum amply provided from the revenue for the hire of the convict mechanics.[105]

Brisbane mentioned the hire scheme to Bathurst in April 1823 but he did not report in detail until the scheme had been in operation for three years, when he stated that the system was "very generally approved of".[106] Bathurst did not share Brisbane's enthusiasm. Whilst he objected to the old method

101. Brisbane to Bathurst, 17 January 1825, HRA i,X1,472.
102. Bigge, New South Wales, p.59.
103. Goulburn to Druitt, 22 December 1821, CSOL 4/3504A, p.183.
104. Colonial Fund 1824, S.G., 3,6, 10 October 1825.
105. The overseers were paid at an exchange of 4s to $1. Ibid.
106. Brisbane to Bathurst, 28 April 1823, 17 January 1825, HRA i,X1,76,471-473. See Chapter 1 for the reasons for Brisbane's delays.

of paying the convict overseers and acknowledged the advantages of the new system, he doubted that it would work.[107] By the time that Bathurst's comments reached the colony, Brisbane's administration was drawing to an end. Conditions had also changed. There was a general shortage of convict labour and revived activity in government public works and acting governor, Lieutenant-Colonel Stewart, prohibited the assignment of convicts with building skills.[108] Darling, aware of the difficulty in collecting payments and of Bathurst's disapproval, abandoned the scheme in 1826.[109] The following year, he reported that the chief justice considered that the hire of convict mechanics was illegal, though Forbes had not raised this point with Brisbane.[110]

Brisbane's efforts to increase private assignment were not limited to voluntary schemes. Bigge had suggested that land grants might be proportionate to the number of convicts that a settler employed.[111] Convicts were usually assigned with each land grant and in 1821 Macquarie announced a scale from one convict for a 100 acre grant to six convicts for 2,000 acres.[112] Brisbane extended this principle into a policy for convict management and land distribution.[113] For each 100 acres granted, a settler was compelled to support one convict until the end of his sentence.[114] The settler was entitled to the full labour of the convict, who could no longer work for himself after hours, and the old system of wages was abolished

107. Bathurst to Brisbane, 2 July 1825, HRA i,XI,681-682.
108. Stewart to Goulburn, 4 December 1825, CSIL 4/1782, f.126; Dumaresq to Goulburn, 6 December 1825, CSIL 4/1784, f.191.
109. Governor's Minute No.92, 21 April 1826, CS 4/990.
110. Darling to Bathurst, 1 March 1827, HRA i,XIII,138.
111. Bigge, New South Wales, p.161.
112. Macquarie to Bathurst, 28 November 1821, encl., HRA i,X,572.
113. For aspects of this policy related to land distribution, see Chapter 5.
114. Brisbane to Bathurst, 10 April 1822, HRA i,X,630-632; Brisbane to Bathurst, 29 November 1823, HRA i,XI,179-184.

in favour of a fund which covered religious, medical and police services.[115]

Wilmot-Horton cynically observed that he would not be surprised if the scheme absorbed every convict in the colony as settlers rushed to get land on these terms[116] but it was not popular in New South Wales.[117] The convict could only work on a particular grant and the colonists could not select their convicts.[118] In practice, the scheme ran into difficulties because the colonial government could not supply enough convicts as well as fulfil normal labour demands.[119] Bonds were completed for only 810 convicts.[120] Grants registered with the condition distributed 2,000 convicts but other settlers accepted convicts for unregistered grants without fulfilling the bonds.[121]

Bathurst disapproved and recommended an alternative scheme based on Bigge's suggestion that skilled convicts be paired with unskilled convicts and a settler should be compelled to take both.[122] This neglected the disproportion between mechanics and unskilled convicts. Brisbane had already distributed the skilled convicts so he ignored Bathurst's recommendation.

The remaining convicts were employed by the government in work gangs, at agricultural stations or at penal outposts.[123]

115. S.G., 12 July 1822; J.Atkinson, op.cit., pp.110-112.
116. Wilmot-Horton to Douglass, 25 September 1824, CO 202/12, p.326.
117. See Chapter 5. Compare Shaw, op.cit., p.191, fn.2.
118. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, pp.23-27
119. e.g. Atkinson to Goulburn, 10 June 1824, CSIL 4/1779, f.138.
120. Certificates of Bonds for Maintaining Convicts 1822-1825, AONSW 2/1626.1. 104 bonds were taken out for 810 convicts. Compare Brisbane to Bathurst, 29 November 1823, HRA i,X1,179 that 107 grantees had accepted all the condition and 305 bonds had been prepared but not yet completed.
121. Registers of Land Grants, Vols.10-14, Registrar-General's Department, Sydney; Atkinson to Goulburn, 10 June 1824, CSIL 4/1779, f.138. See Chapter 5.
122. Bigge, New South Wales, p.158; Bathurst to Brisbane, 31 May 1823, HRA i,X1,87.
123. For the proportions in private and public employment, see below.

Brisbane wanted few convicts in public employment but for those who remained he intended

> to employ them as profitably for the Crown as is beneficial to the individuals. [124]

Some worked on public projects or were stationed at depots to provide raw materials such as timber and lime. Others tended government stock or cleared and cultivated land.

Macquarie had kept many convicts in government service because of the limited labour demands of the settlers. Bigge criticized their employment on public works in towns because the convicts were not adequately confined at night. The new barracks at Hyde Park and the Carters' Barracks did not accommodate all the government convicts and they finished work in mid-afternoon to find other jobs to pay for private lodgings.[125] Bigge recommended that public building be suspended and the convicts distributed among the settlers. Only 400 convicts should be kept in Sydney and 100 at Parramatta for essential services and the old men and boys could perform the light duties around the town.[126] This would release about 4,000 convicts and those who were not assigned should be segregated in isolated penal stations.[127]

Public works were cut to a minimum, partly owing to Brisbane's general reduction in expenses but the lack of trustworthy overseers was an additional incentive.[128] More than

124. Brisbane to Wilmot-Horton, 31 January 1825, Catton Papers, Derby.
125. Bigge, New South Wales, p.21. These comments were echoed by Sir John Jamison. President of the Agricultural Society (Jamison) to Brisbane, - July 1822, Miscellaneous Loose Papers 1802-1844, AONSW 5/3822.6.
126. Bigge, New South Wales, p.163.
127. Ibid., p.164.
128. Brisbane to Bathurst, 28 April 1823, HRA i,X1,79.

half of the mechanics and labouring gangs that had been under Druitt's control in 1821 were distributed.[129] Work on the military installation at Bennelong Point was suspended and part of the general hospital was used for the soldiers rather than extend the existing military hospital.[130]

There were complaints that important construction work was delayed. No work had been done on the Macquarie Pier at Newcastle since 1823 and the Sydney court house remained unfinished in 1825.[131] Much time and labour was spent in repairing and completing Macquarie's buildings. The distribution of mechanics had reduced the skilled labour available for public works and new projects such as the gaol on South Head Road progressed slowly.[132] Alexander Berry alleged that the decline in public works was due to a shortage of funds because the colonial government had manipulated colonial revenue to avoid drawing on the British Treasury.[133]

The new buildings were simple necessities such as storehouses, schools, churches, a hospital at Liverpool and accomodation for government officials.[134] These works were supervised by the chief engineer's office but much of the building was contracted by tender.[135] Brisbane estimated that £100,000 had been spent on public works during his administration.[136]

129. Brisbane to Bathurst, 18 March 1825, encl., HRA i,X1,549.
130. Brisbane to Bathurst, 28 April 1823, ibid., pp.78-79.
131. Australian, 30 June 1825; S.G., 7 July 1825.
132. S.G., 3, 10 February 1825.
133. Berry to (?), 10 January 1823, Berry Papers ML UCMSS 315/5.
134. Tenders advertized for church and schoolhouse at Campbelltown, S.G., 8 November 1822; Court House, Parramatta, S.G., 27 February 1823; Churches at Liverpool, Campbelltown and a parsonage at Windsor, S.G., 30 October 1823; Repair of public buildings in Windsor, S.G., 26 February 1824; Completion of government stores at Parramatta, S.G., 3 February 1825; Liverpool Hospital, S.G., 4 August 1825; Charlotte Place quarters, S.G., 6 October 1825.
135. Ibid.; Brisbane to Bathurst, 29 October 1824, HRA i,X1,386; The acting chief engineer did not approve of an extensive tender system. Ovens to Goulburn, n.d. (1824?), HRA i,X1,652.
136. Brisbane to Bruce, 20 May 1825, Brisbane Papers ML FM4/1626, Section 1.

Brisbane was determined that the convicts who remained with the government should be employed at minimum expense in occupations which would encourage their reformation. He hoped to make government labour "more irksome and more fatiguing" than private assignment[137] though in 1825 there were still occasional comments that government labour was preferable to assignment and that public works were a cover for idleness and wasteful expenditure.[138]

Most convicts were unskilled labourers and there had always been difficulties in finding useful employment for these men. Several settlers had suggested to Bigge that unassigned convicts could be divided into gangs to clear or fence land. These gangs could be supervised by government overseers and hired to settlers, with payment in grain or meat. Other gangs could be available for harvesting, brickmaking and emergency repair work.[139] Bigge recommended the clearing gangs because the labour was useful, easily superintended and required no skills so could be performed by any convict.[140]

In assessing the information given to Bigge, Brisbane immediately recognized the potential of these gangs. In late January 1822, the colonial government announced that settlers who wished to have their land cleared, trees felled, rooted and burnt should apply to the colonial secretary for convict

137. Brisbane to Bathurst, 28 April 1823, HRA i,X1,79.
138. "Adoptator", S.G., 10 February 1825; J.Macarthur jr to Wilmot-Horton, 18 July 1825, encl.3, CO 201/167, f.325 ff.; Forbes to Wilmot-Horton, 6 March 1827, HRA iv,1,701.
139. Lowe to Bigge, 10 July 1820, quoted in Ritchie, Bigge - Written Evidence, pp.50-51; Lawson to Bigge, 24 June 1820, ibid., p.53; Howe to Bigge, 22 January 1821, ibid., pp.58-59; Bell to Bigge, n.d., ibid., p.66; B.Fletcher, "Sir John Jamison in New South Wales 1814-1844", JRAHS, 65 (1979), p.7.
140. Bigge, New South Wales, p.159.

gangs.[141] The charges would vary according to the type of work performed and were to be paid in grain delivered to the government stores. The distribution of the gangs was determined by the colonial secretary but their management was the responsibility of the chief engineer.

The clearing gangs consisted of twenty-two convicts under an overseer, who was generally a well-conducted convict though occasionally a colonial born youth or a small settler.[142] The gangs were drawn from the old road parties and from the overcrowded Sydney barracks where there were 1,400 men whom Brisbane wanted to distribute.[143] Later, as the scheme proved its utility, convicts were put into the clearing gangs as soon as they arrived to learn "settled, industrious habits" and a knowledge of rural labour which would make them useful for assignment.[144] The gangs built huts on the property where they worked and their rations were supplied by the government stores. Luxury items such as tea, sugar, soap and tobacco depended on the amount of work performed each week and overseers were paid 3s 6d for every acre cleared by their gang.[145]

Brisbane considered the clearing gangs were the "best policy I have hit upon" and they were undoubtedly his most popular measure.[146] They provided a flexible labour pool. At times of labour shortages, such as at harvest, the gangs could be used for harvesting on the property where they were

141. S.G., 25 January 1822.
142. Brisbane to Craufurd, 18 May 1822, Brisbane Papers PRO PMG1/1; Goulburn to Kenny, 22 March 1822, CSOL 4/3505, p.65.
143. Orders to various settlers to take convicts from road parties for clearing gangs, CSOL 4/3505, pp.89-91; Brisbane to Craufurd, 18 May 1822, Brisbane Papers PRO PMG1/1.
144. Brisbane to Goulburn, 25 April 1825, Brisbane's Letter Book ML A1559/2, p.206; S.G., 25 August 1825.
145. Brisbane to Bathurst, 28 April 1822, encls. 5 and 6, HRA i,X1,82-83.
146. Brisbane to Bruce, 18 October 1823, Brisbane Papers ML UCMSS 329; Farewell Address of the Agricultural Society and Brisbane's reply, Australian, 17 November 1825.

stationed[147] and the chief engineer allowed the magistrates to split some gangs to help the smaller settlers.[148]

There were various suggestions to extend the system to fencing and building gangs and to differentiate prices to compensate for the varying quality of the land.[149] Comprehensive tables were issued in March and August 1822 listing rates from two to seven bushels of wheat per acre for clearing, stumping and burning off and these differentiated between forest and brush land.[150] The colonial government did not expand the system. Complicated gradations of labour

> would render the several points of the whole machine too complex to work well in practice and would besides be...not at all called for at the present moment when the rough (and very rough I am willing to call it) method we are at this time pursuing furnishes employment for as many individuals as Government are able to spare. [151]

The clearing gangs were never intended to be permanent but were to fluctuate according to demand and provide useful employment for convicts not needed for assignment or other government labour so the number of convicts involved varied.[152] Within the gangs there were changes as men were sent to private assignment and replaced by new arrivals or convicts who had been returned from assignment. In May 1822, four months after the scheme was introduced, there were thirty gangs of 660 men and the demand from the settlers was still unsatisfied.[153] Four months later, there were more than

147. Goulburn to Magistrates, 27 November 1822, CSOL 4/3506, p.485.
148. Reddall to Goulburn, 17 April 1823, CSIL 4/1769, f.159.
149. Throsby to Goulburn, 26 January 1822, Clearing Gangs 1822-1823 CS-SB 4/7014, p.85; Goulburn to W.Cox jr, 12 April 1822, CSOL 4/3505, p.152.
150. S.G., 22 March 1822; Goulburn to Wemyss, 27 August 1822, CSOL 4/3506, p.21
151. Goulburn to W.Cox jr, 12 April 1822, CSOL 4/3505, p.152.
152. Goulburn to Stewart, 5 December 1825, The Governor - Copies of Letters Received 1822-1825 AONSW 4/1672, p.50.
153. Brisbane to Craufurd, 18 May 1822, Brisbane Papers PRO PMG1/1.

1,000 convicts in the clearing gangs and by mid-1824 there were fifty gangs with their overseers (1,150 men).[154] In early 1825, four gangs were broken up because of general labour shortages. The shortages continued and by the close of 1825 most gangs had been distributed.[155] By March 1826, there were only nineteen gangs and Darling ordered these men absorbed into the road gangs and assignment.[156]

The popularity of the gangs led to complaints that preference was given to the largest settlers who kept the gangs for long periods and did not return them for redistribution.[157] During the labour shortages of 1825, the clearing gangs were referred to as a

> device of the old hands of the Colony...;the plan of employing the 1,500 men in convict gangs in clearing the old civilized farms of the ancient settlers at the expense of keeping the new-comers destitute of servants altogether, and consequently of all efficient means of cultivating their farms. 158

The complaint was genuine. Forty-two clearing gangs were allocated to settlers between February and October 1822. Eighteen were free men who had arrived before 1810 and another nine had established themselves as prominent landowners under Macquarie. Only six were landowners who had arrived as convicts. Four others were the sons of settlers and the remaining five were recent settlers.[159] The majority of those who received the first clearing gangs were large landowners. The twenty-seven settlers waiting for clearing gangs in mid-1823 included

154. Brisbane to Craufurd, 14 September 1822, Brisbane Papers PRO PMG1/1. Brisbane also gave a figure of 700 for this period. Brisbane to Bathurst, 28 April 1823, HRA i,X1,79; Brisbane to Bathurst, 23 July 1824, encl., ibid.,p.32(
155. Brisbane to Bathurst, 3 June 1825, encl.7, HRA i,X1,624; Goulburn to Stewart, 5 December 1825, The Governor - Copies of Letters Received, 1822-1825 AONSW 4/1672, p.50.
156. Governor's Minute No.55, 8 March 1826, CS 4/990.
157. J.Atkinson, op.cit., p.88.
158. "An Emigrant", S.G., 1 September 1825.
159. Goulburn to various settlers, CSOL 4/3504A, p.380 ff; CSOL 4/3505, pp.64-65,91; ADB, Vols.1 and 2; New South Wales Census, 1828.

earlier settlers with moderate landholdings and smaller farmers who had been convicts but a later list of settlers with clearing gangs had added only one of these settlers.[160] Most settlers who had received gangs in 1822 still had them in 1824.[161] A list of gangs in 1825 showed some redistribution but only among other large established settlers.[162]

None of the settlers who received clearing gangs lived outside the old settled areas. More recent settlers whose land was in the newer districts such as the Hunter Valley, applied unsuccessfully for gangs [163] though it was argued that these were the settlers who needed clearing gangs.[164] The impact of the clearing gangs was noticeable in an area of forty miles around Sydney but was less apparent on the farms along the Hawkesbury where there were many small former convict settlers.[165]

Brisbane had calculated that each gang would clear a minimum of 150 acres per year[166] and the chief engineer placed the figure at an average of 180 acres.[167] Although these estimates were not reached in the first two years, in 1824 fifty gangs cleared 8,490.5 acres or 169.8 acres per gang. This rate was maintained in 1825 when forty-six gangs cleared 2,892 acres in four months, an annual projection of 188.6 acres per gang.[168] The result was a significant increase in the

160. Goulburn to Ovens, 14 June 1823, CSOL 4/3508, p.515; List of Proprietors with Gangs, n.d., Clearing Gangs 1822-1823, CS-SB 4/7014, f.13.
161. List of Clearing Gang Bonds, 22 May 1824, Clearing Gangs 1822-1823, CS-SB 4/7014, f.321.
162. Return of Lands Cleared by Clearing Parties...compiled by the Surveyor-General's Department, n.d. (1825-1826?), AONSW 2/1626.2.
163. Close to Goulburn, 12 February 1822, Clearing Gangs 1822-1823 CS-SB 4/7014, f.93; Webber to Goulburn, 19 February 1822, ibid., f.95.
164. "An Emigrant", Australian, 13 January 1825.
165. Mrs Brooks, Diary, - September 1825, NLA MS 1559/4.
166. Brisbane to Bruce, 18 March 1822, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Craufurd, 18 May 1822, Brisbane Papers PRO PMG1/1.
167. Brisbane to Bathurst, 23 July 1824, encl., HRA i,X1,327.
168. Brisbane to Bathurst, 3 June 1825, encl.7, ibid., pp.623-624.

amount of cleared land. Between 1821 and 1825, 69,563 acres were cleared and the clearing gangs were responsible for almost one-third of this area, clearing 20,031 acres between March 1822 and April 1825.[169]

These successes were counterbalanced by disputes over payment. Although the settlers had suggested payment in grain or meat, Brisbane's insistence on this method was unpopular. Grain payments were vital to Brisbane's application of political economy to convict management because they would reduce the government's need to buy wheat for the convicts and cut expenses.

Based on his assessment that each gang would clear 150 acres in a year, Brisbane calculated that thirty gangs would clear 4,500 acres and he anticipated a harvest of 67,500 bushels from this land. Of this, 22,500 bushels would be paid to the government for clearing the land, at a rate of five bushels per acre. A convict consumed twelve bushels of wheat per year so 22,500 bushels would feed 1,875 convicts. Only thirty gangs, or 660 men, had been employed in clearing the land so their labour would feed three times their number.[170]

These estimates were unrealistic. Brisbane assumed that all the newly cleared land would be used for wheat cultivation in the first season and that each acre would yield fifteen bushels of wheat. He ignored the varying quality of land and the sensitivity of the settlers to the limitations of the local grain market.[171] The increase in cleared land was not accompanied by a comparable increase in cultivated land.[172]

169. Brisbane to Bathurst, 3 June 1825, encl.7, HRA i,X1,623-624; 1821 Muster, HRA i,X,577; Colonial Returns 1825.
170. Brisbane to Craufurd, 18 May 1822, Brisbane Papers PRO PMG1/1.
171. See Chapter 6.
172. The area cleared more than doubled between 1821 and 1825 from 58,312 to 127,878 acres but cultivated land only increased from 32,266 to 45,514 acres. 1821 Muster, HRA i,X,577; Colonial Returns 1825.

Ovens calculated that the cost to government of providing rations, indulgences, tools and gratuities to the gangs would be covered if fifty gangs cleared 9,000 acres per annum and the government was paid six bushels per acre.[173] However, this was based on a value of 8s 6d per bushel which was considerably higher than the average price for most of the period.[174] The calculations assumed that the land would be fully cleared whereas many settlers only required the less expensive services of tree felling or burning off.[175] If the area cleared by the gangs during the four years had been paid for at six bushels per acre, 120,000 bushels would have been received at the government stores. There are no returns of wheat payments, though some appeared in the wheat tender lists,[176] but there were several indications that the clearing gangs were not the financial success that Brisbane had anticipated.

There were rumours that the gangs were given to the larger settlers because they could afford to pay for them.[177] The wheat payments were not due for twelve months but the colonial government required a bond of £100 guaranteeing payment at quarterly periods after a year and restricting the gangs to clearing land.[178] Settlers with gangs persistently refused to sign the bonds. In April 1823, William Cox, magistrate for the Windsor region, reported that only two of six settlers with gangs would sign their bonds and among those who declined was his own son.[179] In September 1823, Alexander

173. Brisbane to Bathurst, 23 July 1824, encl., HRA i,X1,326.
174. Wheat prices fluctuated greatly during these years. See Chapter 6.
175. e.g. List of Proprietors with Gangs and work performed, n.d., Clearing Gangs 1822-1823, CS-SB 4/7014, f.13.
176. e.g. S.G., 20 February, 13 March 1823.
177. J.Atkinson, op.cit., p.89.
178. Example of Bond, Clearing Gangs 1822-1823, CS-SB 4/7014, f.223.
179. Cox to Goulburn, 5 April 1823, ibid., f.251.

Still at the commissariat in Parramatta listed fifteen settlers whose clearing gangs were victualled from the Parramatta stores but who had not signed the necessary bonds. Among these were prominent settlers such as the Reverend Samuel Marsden, Lieutenant-Governor Erskine, John Blaxland, G.T. Palmer, Thomas Walker, John Harris, D'Arcy Wentworth and William Lawson.[180] By May 1824 only twenty-two bonds had been signed although fifty gangs were at work.[181]

Faced with the refusals of the larger settlers to enter into the bonds, in September 1823 the colonial secretary ordered the withdrawal of gangs if payment fell three months in arrears. This order applied to John and Hannibal Macarthur, John Oxley, Richard Brooks, J.T.Campbell and D'Arcy Wentworth but there was no suggestion that it was ever enforced.[182] William Cox junior refused to sign because the bonds had not been mentioned when the gangs were distributed. The government never specified the amount of work necessary for the gangs to cover their expenses nor had it given the proprietor any authority over the men.[183]

Insistence on the bonds only emerged when the commissariat became concerned that the anticipated wheat payments would not be forthcoming.[184] Repeated notices for payment were ignored and in September 1824, when there were serious fears that the grain supply was inadequate, the government took legal steps to recover the forfeit bonds and the payments due for

180. Still to Wemyss, 26 September 1823, Clearing Gangs 1822-1823, CS-SB 4/7014, f.277.
181. List of bonds for clearing gangs, 22 May 1824, ibid., f.321.
182. Goulburn to Wemyss, 29 September 1823, CSOL 4/3509, p.325.
183. W.Cox jr to Goulburn, 22 March 1823, CSIL 4/1770, f.180.
184. Minute, ibid.; Clearing Gang Bonds delivered to Wemyss, 22 May 1824, Clearing Gangs 1822-1823, CS-SB 4/7014, f.321; Wemyss to Brisbane, 27 July 1825, Copies of Letters Received by the Governor 1822-1825, AONSW 4/1618, p.166.

the gangs.[185] In 1828, Darling noted that several of the largest landowners were still greatly in debt to the government for their clearing gangs and apparently had no intention of paying.[186]

Brisbane's hopes for a reliable grain supply for the government were not realized.[187] The wheat received for the clearing gangs was insufficient to cover their cost but the gangs were less expensive than employing the convicts on public works.[188] Their behaviour was better than the old road gangs though supervision remained a problem. The gangs were not confined at night and they were blamed for constant petty theft of food, clothing and spirits.[189] In 1824 supervision was increased with the appointment of two sub-inspectors. They were well-behaved convicts, stationed at Liverpool and Rooty Hill, who made weekly inspections of the gangs in their district and reported on their work and behaviour. They were responsible for bringing unruly convicts before the magistrates and finding replacements if a convict was removed from a gang.[190] The clearing gangs were praised for removing a large number of convicts from that "mass of evil", Sydney.[191]

Although Brisbane discussed the clearing gangs in his private correspondence, he only mentioned them to the Colonial Office as part of the changes that had followed Bigge's report.[192]

185. S.G., 5 August, 16 September 1824. See also Chapter 6.
186. Darling to Huskisson, 28 May 1828, HRA i,XIV,206.
187. Brisbane to Bathurst, 23 July 1824, HRA i,XI,323.
188. J.Atkinson, op.cit., p.89.
189. Brisbane to Bathurst, 28 April 1823, HRA i,XI,79; J.Atkinson, op.cit., p.88; P.Cunningham, Two Years in New South Wales (1827 and Sydney, 1966), p.332.
190. S.G., 10 June, 15 July 1824; Brisbane to Bathurst, 23 July 1824, encl., HRA i,XI,324-326.
191. Throsby to Goulburn, 26 January 1822, Clearing Gangs 1822-1823, CS-SB 4/7014, f.85; President of Agricultural Society to Brisbane, - July 1822, Miscellaneous Loose Papers 1802-1844 AONSW 5/3822.6.
192. Brisbane to Bathurst, 28 April 1823, HRA i,XI,79,82-83. See Chapter 1.

The fullest account of the clearing gangs was enclosed with Brisbane's commendation of the work of John Ovens, the acting chief engineer, whom he praised for "maturing, superintending and giving effect to the System".[193] Despite his own reticence, Brisbane was disappointed that the Colonial Office did not ackowledge the scheme which he considered to be the most visibly successful part of his convict policy.[194] Since the clearing gangs had been recommended by Bigge, perhaps the Colonial Office felt that no comment was necessary.

Private assignment, the hire of convict mechanics, convicts attached to land grants and the clearing gangs were designed to assimilate most of the convicts. For those who could not be distributed in this way, either because there was no demand for their labour or because the convict's behaviour required stricter discipline, the colonial government had to find alternative employment. For Brisbane, the solution was government stations where the convicts would be isolated from the moral temptations of the towns, where they could learn basic farming skills and would be able to produce their food, thus relieving the government of part of their expense.[195]

Government farms had varied with the colony's needs for food pasture and convict labour. Initially, Macquarie had suspended government farming because private enterprise could provide sufficient grain and meat but with the increasing number of convicts after 1815, he reconsidered agricultural

193. Brisbane to Bathurst, 23 July 1824, HRA i,X1,323-327.
194. Brisbane to (Craufurd?), 13 May 1825, Brisbane Papers ML FM4/1626, Section 1
195. Brisbane to Bathurst, 28 April 1823, HRA i,X1,79; Douglass to Wilmot-Horton, 18 September 1824, CO 201/155, ff.400-401. Some, such as Judge Field, believed that the government could not produce its food supplies economically. B.Field, "Journal of an Excursion Across the Blue Mountains, October 1822", in G.Mackaness (ed.), Fourteen Journeys Over the Blue Mountains of New South Wales 1813-1841 (3 vols., Dubbo, 1978), Vol.2, pp.34-35.

employment. In 1819, Emu Plains on the banks of the Hawkesbury-Nepean River was established to employ surplus convict labour in farming. Bigge, despite some reservations about its management, thought that Emu Plains was a useful training centre.[196]

Brisbane ordered an investigation of government agriculture as soon as he took office. The survey covered the gardens at the Carters' Barracks in Sydney, Grose Farm and Longbottom, the grazing land at Rooty Hill, Parramatta, Liverpool and along the Western Road as well as the main farm at Emu Plains. It found that there were no maps of the government farms and the exact location of the grazing land along the Western Road was unknown. The report concluded that

> Government Establishments of this kind are not in general advisable and in almost no instance profitable, but whether they can in a colony like this be entirely abandoned is a matter of serious consideration which Your Excellency on mature deliberation must determine. [197]

Brisbane continued the farming operations at Emu Plains. In April 1822, Macquarie's superintendent Richard Fitzgerald, a former convict, was succeeded by Peter Murdock, a young half-pay lieutenant and a kinsman of the governor. Under Murdock's "unflinching superintendence", Emu Plains acquired a good reputation as a reform and training centre and his profitable management was a source of considerable pride to Brisbane.[198]

196. B.H.Fletcher, Landed Enterprise and Penal Society (Sydney, 1976), pp.116-119; Bigge, New South Wales, p.25,36-40,75.
197. Campbell to Brisbane, 12 February 1822, Copies of Letters Sent and Received in the Colony 1821-1824, CS 4/5783.
198. S.G., 12 April 1822; Cunningham, op.cit., p.330; J.Mitchell, Journal of a Voyage to New South Wales...7 April 1822 - 11 May 1823, University of Edinburgh Library DC7.123, p.120; Brisbane to (?), 31 March 1823, Brisbane Papers ML FM4/1626, Section 1. Murdock went to Van Diemen's Land in 1825 and became commandant of Maria Island Penal Station and a Commissioner for the Valuation of Crown Lands. In 1838, he gave evidence to the Molesworth Committee on Transportation. Royal Commonwealth Society, "The Murdock Papers 1", R.C.S. Library Notes, New Series, No.157 (1970).

Its 3,000 acres were ideal for agriculture and visitors were impressed by the new crops and techniques which were tried there. Tobacco and flax were grown successfully and the establishment was self-sufficient in wheat. Local mill-stones were tested there and a convict theatre performed for the settlers in July 1825.[199]

In December 1821, there were 306 convicts at Emu Plains and the numbers rose to 400 in June 1822. For short periods there were as many as 500 but during 1824 and 1825 there were 150 to 200 convicts.[200] Murdock found most of them insubordinate and lazy and the frequent transfer of men to clearing gangs or assignment necessitated a constant training programme.[201] Convict boys, women and invalids were also sent there for light field work and in 1824 it was used as a depot for unassigned married convict couples.[202] The sale of its excess produce earned a profit of £806 in 1823 and £1,524 in 1824 and as the only convict establishment which was consistently self-sufficient, Brisbane was delighted with its success.[203]

It was generally accepted that rural work was the most beneficial labour for the convicts.[204] Brisbane extended this to a policy for colonial expansion under which the convict became the pioneer. His punishment was to suffer the hardship

199. O.& W.L.Havard, "Some Early French Visitors to the Blue Mountains and Bathurst, Part 11", JRAHS, 24 (1938), p.266; A.Jose, "Sydney and District in 1824 as Described by a French Visitor", JRAHS, 10 (1924), p.255; Statement on Emu Plains, 29 September 1824, CSIL 4/1775, f.165; S.G., 13 November 1823, 4 March 1824, 21 July 1825; Brisbane to Wilmot-Horton, 24 March 1825, HRA i,X1,554.

200. Brisbane to Bathurst, 18 March 1825, encl., HRA i,X1,549; Brisbane to Ferguson, 3 April 1823, Brisbane Papers Scott Collection, Bundle 6; Brisbane to (?), 26 July 1823, Brisbane Papers ML FM4/1626, Section 1; Statement on Emu Plains, 29 September 1824, CSIL 4/1775, f.165; Emu Plains Returns 1822-1824, Miscellaneous Convict Returns 1822-1825, CS-SB 2/8283.

201. Murdock to Brisbane, 12 February 1823, CSIL 4/1769, f.42; Emu Plains Returns 1822-1824, Miscellaneous Convict Returns 1822-1825, CS-SB 2/8283.

202. Ibid.; Douglass to Wilmot-Horton, 18 September 1824, CO 201/155, f.400.

203. Brisbane to Ferguson, 3 April 1823, Brisbane Papers Scott Collection, Bundle 6; Brisbane to (?), 31 March 1823, Brisbane Papers ML FM4/1626, Section 1 Royal Commonwealth Society, op.cit.

204. Bigge, New South Wales, p.156.

of opening new regions, clearing land, building roads and townships, cultivating food and facing the hostility of the aborigines. When the wilderness was subdued, the area would be opened for free settlement and the convicts would be moved to a new location where the process would start again. This had happened at Newcastle where the convicts had been followed by free settlers and Brisbane anticipated a similar sequence at Port Macquarie.[205]

The concept of the convict as pioneer was the guiding principle for the new convict station at Wellington Valley, about sixty miles north-west of Bathurst. Lieutenant Percy Simpson, a newly arrived half-pay officer, was chosen to establish and command the settlement. Simpson had four years' administrative experience in civil and military government in the Mediterranean area and he had applied to the Colonial Office for a civil position in the Australian colonies in February 1822.[206] He was unsuccessful but decided to take his family to New South Wales as settlers with a capital of £1,200.[207] In January 1823, shortly after his arrival, he was appointed to establish the Wellington outpost on a salary of £100 per annum, with a bonus of £4 for each convict who was supported on the produce of the settlement.[208]

Simpson and the first party of convicts set out in late January 1823 for Bathurst where carts, provisions and a guide were to be waiting for them. Once at Bathurst, Simpson began to realise the magnitude of his task. Wellington Valley had

205. Brisbane to Wilmot-Horton, 24 March, 16 June 1825, HRA i,X1,555,649.
206. Simpson to Bathurst, 26 February 1822, CO 201/111, f.581.
207. Simpson to Wilmot-Horton, 3 March 1822, CO 201/113, f.374.
208. Goulburn to Simpson, 1 January 1822 (should be 1823), Brisbane Papers ML FM4/1626, Section 6.

been discovered by Oxley in 1819 but no-one had since been there. The only guide was a man who had accompanied Oxley four years earlier. There was no marked route and a road had to be cut as they proceeded. Simpson was convinced that "studied pains" were taken by those at Bathurst to deter him from continuing to Wellington Valley. Whether these were objections to a new government station on potential grazing land or simply the warnings of Lawson, the commandant at Bathurst, who had a more realistic experience of the difficulties that lay ahead, Simpson did not specify. Once Simpson and his party reached Wellington, sufficient food and seed wheat had to be conveyed from Bathurst before the wet season flooded the creeks between the two settlements and isolated Wellington.[209]

Within six months, the initial party of forty had cleared and planted fifty-seven acres with wheat.[210] By September 1825, there were 270 acres of wheat and oats, maize, potatoes and tobacco were grown.[211] Brisbane's optimistic estimate of thirty-five bushels an acre was unrealistic; the land produced less than five bushels of wheat to an acre.[212] There were about sixty prisoners and a detachment of soldiers at the settlement by the close of 1825.[213]

The colonial authorities had anticipated that the distance from civilization, the isolation from the vices of town life and the absence of spirits would convert the convicts to docile

209. Simpson to Goulburn, 9 February, 1 March 1823, CSIL Wellington 4/1818, f.35,49.
210. Simpson to Goulburn, 14 July 1823, ibid., f.87.
211. Simpson to Goulburn, 28 September 1825, ibid., f.433.
212. Brisbane to Sir Henry (Makdougall?), 23 March 1823, Brisbane Papers ML FM4/1626, Section 1; Simpson to Fennell, 3 May 1825, CSIL Wellington 4/1818, f.365.
213. S.G., 29 September 1825.

rural labourers and there would be little need for punishments.[214] However, the authorities underestimated the determination of convicts to escape from unpleasant duties and were alarmed when Simpson reported a deliberate and highly efficient programme of sabotage by the convicts to force the settlement to be abandoned. The mechanics absconded with the sheep; the blacksmith ran off, crippling all agricultural work because no one could repair the tools; crops and rations were destroyed. Simpson believed that the situation was aggravated by lack of support from Bathurst. Runaways were kept there or sent to Port Macquarie which encouraged further escapes from Wellington. The horrors of Port Macquarie were preferable to the hardship and isolation of pioneering life at Wellington. In 1824, the harvesters ran away and worked at Bathurst, leaving the Wellington corn to rot on the ground and the situation had not improved by the 1825 harvest.[215]

Simpson lacked authority. Although he was in charge of the settlement, he was not a magistrate and had no authority to order effective punishments. He was only a half-pay officer and the military detachment was not under his command. He frequently clashed with the soldiers over their refusal to provide sentries, guard the crops or pursue runaways.[216] These problems were not helped by personality clashes with other officials.[217]

Brisbane's selection of Wellington Valley was based on

214. Goulburn to Simpson, 1 April 1823, CSOL 4/3508, p.53.
215. Simpson to Goulburn, 11 March 1823, 18 June, 14 August 1824, 15 October 1825, CSIL Wellington 4/1818, f.61,249,257,453; Goulburn to Lawson, 16 September 1823, CSOL 4/3509, p.250.
216. Simpson to Goulburn, 25 April 1823, 8 June 1824, CSIL Wellington 4/1818, f.73,221; Morisset to Hay, 5 September 1826, CO 201/179, f.177.
217. Kiernan to Goulburn, 25 July 1824, Copies of Letters Sent and Received in the Colony 1824-1827, CS 4/5782, p.112; Field, op.cit., p.47, fn.

hopes that the Macquarie River which linked Bathurst and Wellington would prove navigable but by 1825 he admitted that the serious disadvantage of interior settlements was the lack of cheap water transport.[218] Wellington Valley never developed into a major convict establishment but it was an important experiment. Despite its problems, it was reasonably self-sufficient and Simpson received $800 from the Colonial Fund in 1824 as a gratuity for the quantity of wheat that had been grown to support the convicts at his station.[219] In succeeding years, the size of the establishment was reduced and, under pressure from the Colonial Office, was abandoned in 1830 as an economy measure despite Darling's opinion that its expenses had been minimal and it had been a useful depot to isolate educated convicts.[220]

Brisbane's self-sufficient convict system foundered on the confinement and employment of hardened offenders who were not amenable to private assignment, clearing gangs or agricultural stations. Newcastle had been established as a secondary penal settlement where the most intractable convicts, those who had been transported more than once and those sentenced for offences committed in the colony, could be effectively disciplined by hard labour. Port Macquarie was founded in 1821 by Macquarie with Bigge's approval as a more isolated depot for these offenders and when Newcastle was opened for free settlers in 1823, Port Macquarie became the

218. Brisbane to Bruce, 20 May 1825, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Bathurst, 28 April 1823, HRA i,X1,80.
219. Colonial Fund 1824, S.G., 6 October 1825.
220. Darling to Goderich, 22 December 1827, HRA i,X111,661; Darling to Murray, 24 May 1830, HRA i,XV,481; Murray to Darling, 26 October 1830, ibid., pp.804-805; Darling to Murray, 22 December 1830, encl., ibid., p.861.

major penal settlement for intractable convicts.[221]

To Brisbane, Port Macquarie was a world of the living dead, where men reprieved from death laboured in irons for the terms of their natural lives.[222] He expected that it should be self-sufficient and commandants Allman (1821-1824), Rolland (1824) and Gillman (1825) devoted considerable effort to this aim.[223] In 1822, the value of the produce of 248 convicts exceeded their total expenses with £1,122 profit [224] but in 1823, 275 convicts were maintained at a loss of £2,845.[225] By late 1824, there were 1,111 convicts at Port Macquarie, employed in timber-cutting, agriculture and grazing.[226] Two hundred tons of sugar cane was expected from the seventy-five acres planted in 1825.[227] Cotton was grown for clothing, tools were manufactured from iron bars sent from Sydney and the sale of local cedar, sugar and tobacco helped meet the cost of the capital outlay for the establishment. Yet, despite the variety and success of the individual enterprises, Port Macquarie was not run profitably after it became the major secondary penal establishment.[228]

The reason was inherent in the nature of the settlement. Many of the convicts were hardened men on whom fear, remorse and most punishments had little impact. The range of activites to employ so many unwilling labourers was limited and the

221. Bigge, New South Wales, p.100,155,164-165.
222. Brisbane to (?), 13 December 1822, Brisbane Papers ML FM4/1626, Section 1.
223. S.G., 15 April, 29 April, 25 November 1824, 6 January 1825; "F.Allman", ADB, Vol.1.
224. Allman to Bigge, 10 September 1824, Catton Papers, Derby.
225. Brisbane to (?), 26 July 1823, Brisbane Papers ML FM4/1626, Section 1.
226. Port Macquarie Returns, 20 October 1824, CSIL Port Macquarie 4/1815, f.479.
227. S.G., 25 August 1825.
228. Rolland to Goulburn, 20 October 1824, CSIL Port Macquarie 4/1815, f.463.

programme for self-sufficiency was not an incentive for these men. The prisoners were

> impressed with the idea that they are more unfortunate than culpable; and are in general desirous from a motive stronger than mere idleness, to evade every employment which may be profitable to the Government.

Since the government fed the idle as well as the industrious, the prisoners were unwilling to work.[229]

Bigge's recommendations on the convict system had emphasized the extension of secondary penal establishments like Port Macquarie to more isolated areas. He suggested three tropical sites where unassigned convicts, isolated from the settled districts, would be more amenable to the strict discipline consistent with transportation and could be employed cultivating their food.[230] Oxley was ordered to survey the northern coastline to assess the potential of these sites.[231]

Brisbane rejected Bigge's conclusions. Whilst agreeing that the convicts should be removed from Sydney and the Cumberland Plain, Brisbane claimed that the congregation of convicts in secondary penal establishments would lay the foundations for a second Sydney with all the same problems.[232] Tropical settlements would be expensive because profitable employment for the convicts would be difficult.[233] In Brisbane's opinion, the convicts became increasingly difficult to manage if they were kept in large groups.[234] The solution was to scatter them among the population, either by assignment or in small groups at agricultural stations.[235]

229. Rolland to Goulburn, 20 October 1824, CSIL Port Macquarie 4/1815, f.463.
230. Bigge, New South Wales, pp.164-165.
231. Bathurst to Brisbane, 9 September 1822, HRA i,X,791-792.
232. Brisbane to Bathurst, 29 November 1823, HRA i,X1,181.
233. Brisbane to (?), 31 March 1823, Brisbane Papers ML FM4/1626, Section 1.
234. Ibid.
235. Douglass to Wilmot-Horton, 18 September 1824, CO 201/155, ff.400-401.

Brisbane considered that he was not obliged to follow Bigge's recommendations[236] and initially he and Goulburn showed little enthusiasm for the northern settlements.[237] Bathurst had made it clear in both his public and private correspondence that isolated penal establishments must become the central feature of transportation to New South Wales.[238] Brisbane preferred the pioneer convict settlement at Wellington Valley. It had been established after the Bigge report had arrived in the colony[239] and was deliberately contrary to Bigge's recommendations.[240]

The discovery of a large river at Moreton Bay, one of Bigge's suggested northern sites, altered Brisbane's perspective. The area had potential for free settlement and a penal establishment there would correspond with the principles which had guided the settlement at Wellington Valley and provide a base to open the country for free settlers. Port Macquarie was overcrowded and escape too easy to the nearby Hunter Valley settlements. Brisbane proposed abandoning Port Macquarie to free settlers and moving the penal station to Moreton Bay.[241] Darling agreed with this plan and implemented it in 1826.[242]

The Colonial Office viewed the Moreton Bay report in a

236. Brisbane to (?), 31 March 1823, Brisbane Papers ML FM4/1626, Section 1.
237. Oxley to King, 20 April 1823, King Papers ML A1976.
238. Bathurst to Brisbane, 9 September 1822, HRA i,X,791; Bathurst to Murray, 11 November 1822, Bathurst Papers BM Loan 57/64, pp.14-15.
239. The first Bigge report arrived in late November 1822. S.G., 29 November 1822. Wellington Valley was established in January 1823.
240. Brisbane to Sir Henry (Makdougall?), 23 March 1823, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Ferguson, 3 April 1823, Brisbane Papers Scott Collection, Bundle 6.
241. Brisbane to Bathurst, 8 July 1824, HRA i,X1,304; Brisbane to Bathurst, 21 May 1825, ibid., pp.603-604.
242. Darling to Bathurst, 31 August 1826, HRA i,X11,514.

different light. Bathurst rejected the penal establishment at Moreton Bay specifically because of its potential for free settlement.[243] In addition, since issuing the order to investigate Bigge's northern sites, the Colonial Office had considered the proposal of Captain P.P.King to resettle Norfolk Island as a maximum security penal establishment.[244] Wilmot-Horton foreshadowed this possibility in July 1823[245] but Brisbane was not informed officially before a detachment was sent to Moreton Bay.[246]

Norfolk Island had been abandoned as a penal station in 1814 partly because of constant supply problems and Brisbane foresaw similar difficulties and expense, particularly if it was reoccupied as well as the new northern settlement.[247] However, by 1825, Brisbane accepted that Norfolk Island would be a secure depot for the increasing number of desperate offenders and runaways who could not be restrained in the existing penal facilities.[248] In June 1825, a military detachment and fifty-six convicts sailed for Norfolk Island.[249]

Brisbane envisaged a pyramid of penal stations:

> I should recommend as the Second places of punishment, viz. Port Macquarie for first grave offences; Moreton Bay, for runaways from the former, and Norfolk Island as the ne plus ultra of convict degradation. [250]

Within the convict system, the penal establishments were the pinnacle of a larger pyramid. At the base was assignment.

243. Bathurst to Brisbane, 22 July 1824, HRA i,X1,321; CO Minute, n.d., CO 201/150, f.30.
244. King to Wilmot-Horton, 26 June 1823, CO 201/146, f.646.
245. The Times, 8 July 1823.
246. CO Minute, n.d., CO 201/150, f.29; Brisbane to Bathurst, 3 February 1824, HRA i,X1,215.
247. Brisbane to (Bruce?), 31 December 1823, Brisbane Papers ML UCMSS 329; Shaw, op.cit., pp.184-185.
248. Brisbane to Wilmot-Horton, 31 January 1825, Catton Papers, Derby.
249. S.G., 2 June 1825.
250. Brisbane to Wilmot-Horton, 24 March 1825, HRA i,X1,553; Brisbane to Bathurst, 21 May 1825, ibid., p.604.

The intermediate level was government labour, clearing gangs and agricultural stations. Much of this structure was introduced in the face of opposition from the settlers and disapproval by the Colonial Office. Increased assignment was criticized as too sudden and too extensive. If the settlers had to support too many convicts, in the long term they would return them to the government.[251] Wilmot-Horton thought that assignment should increase gradually as the colony expanded and disapproved of Brisbane's schemes. His criticisms revealed that he was uncertain that convict labour was an advantage for the settlers.[252]

External circumstances favoured Brisbane's convict schemes. Increased immigration and fewer convict arrivals created a high demand for convict labour. If circumstances had been those faced by Macquarie, with increasing convict arrivals and reduced labour demands, Brisbane's assignment policies would have collapsed, his agricultural and penal stations would have become over-crowded and there would have been little demand for the clearing gangs.

Although the Colonial Office did not approve, Brisbane's measures were successful in solving two major problems of the Macquarie period. Assignment was substantially increased and this led to the relocation of convicts away from the towns, as shown in Table 3.

251. Jamison to Bathurst, 2 September 1822, CO 201/111, f.365.
252. Wilmot-Horton to Douglass, 16 November 1824, CO 202/13, p.40 ff.; J.J.Eddy, Britain and the Australian Colonies 1818-1831 (Oxford, 1969), p.216.

Table 3. Distribution of Male Convicts, 1821-1825.[253]

District	1821	1823	1825
Sydney	4,597	1,740	3,082
Parramatta	1,601	1,136	897
	6,198	2,876	3,979
Western Cumberland			
Castlereagh and Evan		850	348
Richmond		321	283
Wilberforce		240	308
Melville			286
Bringelly		507	395
Windsor[254]	1,784	645	459
		2,563	2,079
Southern Cumberland			
Airds			521
Appin		139	153
Minto		337	329
Campbelltown		289	n.a.
Liverpool[254]	1,764	618	624
		1,764	1,627
Beyond Cumberland			
Emu Plains			163
Bathurst	209	482	672
Wellington			84
Cawdor		287	398
Argyle		103	295
Newcastle	1,001	578	1,005
Port Macquarie	92	688	1,327
Moreton Bay			43
Norfolk Island			56
Melville Island			59
	1,302	2,138	5,102
Miscellaneous and unaccounted	294	87	1,684
Total Number of Convicts	11,342	9,047	13,415

253. 1821 Muster, HRA i,X,575; Colonial Returns 1823, 1825.
254. 1821 figures include surrounding district.

In 1821, the majority of male convicts, fifty-five per cent, lived in Sydney and Parramatta.[255] By 1823, this proportion had fallen to thirty-two per cent and by 1825 to thirty per cent,[256] though the figures reflect the problem of reducing the total number of convicts in Sydney. The main contribution to the decrease of male convicts in Sydney was the reduction of the chief engineer's gangs. In 1821, Druitt employed 4,031 convicts at the dock and lumber yards, in various supply and road gangs and at the outstations. Of these, 2,107 were stationed in the immediate vicinity of Sydney. By March 1825, these gangs had been reduced to 1,851 men, though this figure did not include the clearing gangs managed by the chief engineer, and only 695 convicts were employed near Sydney.[257] This figure was closer to Bigge's recommended 400 government convicts in Sydney.[258]

The number of convicts outside Sydney and Parramatta but still within the Cumberland Plain did not vary significantly between 1821 and 1825, fluctuating between 3,500 and 4,000 convicts. The proportion of convicts beyond the Cumberland Plain increased dramatically from twelve per cent in 1821 to twenty-four per cent in 1823 and thirty-eight per cent in 1825.[259] New settlers selected their land in the Hunter Valley or at Bathurst and had convicts attached to their grants and the expansion of settlement was accompanied by a dispersion of convicts with stock in the new districts.[260] The new penal settlements were all beyond the Cumberland Plain.

255. 1821 Muster, HRA i,X,575.
256. Colonial Returns 1823 and 1825.
257. Brisbane to Bathurst, 18 March 1825, encl., HRA i,XI,549.
258. Bigge, New South Wales, p.163.
259. See Table 3.
260. See Chapter 5.

Fluctuations in employment make statistical assessment of assigned convicts imprecise. Using figures for the total number of convicts, the approximate number in government employment and in penal stations, it is possible to estimate the number in private assignment. In 1821, there were 1,093 convicts in the penal establishments of Newcastle and Port Macquarie. The government employed 4,031 in various gangs as well as a small number at the government stock station at Bathurst. Out of a total of 11,342 convicts, there were about 6,000 convicts assigned to the settlers. In 1825, the number at the three penal establishments had risen to 1,416 convicts. The government employed 1,851, including Emu Plains, another 1,000 were in the clearing gangs, and there were a small number at Wellington Valley, Bathurst, Melville Island settlement and in the coal mines at Newcastle. Of 13,356 male convicts, nearly 9,000 were assigned, an increase from fifty-three to sixty-seven per cent.[261]

Brisbane's general policies dealt with the majority of convicts, the able-bodied men, but there were also minority groups who required special management. The Carters' Barracks at the Brickfields, built in 1820, included a wing to separate 100 convict boys from the other prisoners. Some boys worked for the government at Grose Farm near Sydney. In 1821, there were forty-eight convict boys who were apprenticed to convict tradesmen under the supervision of the chief engineer and were eventually assigned. Under Brisbane, the number of apprentices was reduced because fewer convict tradesmen were kept by the government.[262] At the close of Brisbane's administration, there

261. Table 3; Brisbane to Bathurst, 18 March 1825, encl., HRA i,X1,549. The reduction of the clearing gangs throughout 1825 would have increased the number of assigned convicts.
262. Bigge, New South Wales, p.23,27; Ovens to Goulburn, n.d.(1824?), HRA i,X1,656,658; Brisbane to Bathurst, 18 March, 14 May 1825, ibid., p.549,57

were ninety-two boys at the Carters' Barracks but thirty-seven were old enough to be assigned. The others included nineteen apprentices, eight servants and twenty-eight labourers.[263] The elderly and sick convicts were retained by the government in Sydney on light duties.[264]

Educated convicts had formerly been employed as clerks or schoolmasters but Bigge had objected that this was not sufficient punishment.[265] Bathurst recommended their distribution away from the towns in light manual work.[266] Officials and settlers feared the unsettling influence of educated convicts. John Macarthur junior reported to the Colonial Office that educated convicts could not be reformed. They were a moral and political threat because of their democratic ideas and he recommended that they should not be sent to New South Wales.[267] This view was shared by James Stephen, the legal counsel at the Colonial Office, and James Morisset, the commandant at Newcastle and Bathurst.[268] Brisbane isolated the educated convicts at Bathurst, away from the temptations of Sydney and the opportunity to influence other convicts.[269]

During Brisbane's administration, a recurring problem was the management of the women convicts. When Brisbane arrived at the close of 1821, there were 893 women convicts. During the next four years, 774 women arrived and this created serious administrative problems.[270]

263. Governor's Minute No.39, 16 February 1826, CS 4/990.
264. Brisbane to Bathurst, 14 May 1825, HRA i,X1,577.
265. Bigge, New South Wales, pp.41-42,104.
266. Bathurst to Brisbane, 30 May 1823, HRA i,X1,85.
267. J.Macarthur jr to Wilmot-Horton, 18 July 1825, CO 201/167, ff.302-317.
268. Stephen to Wilmot-Horton, 27 March 1825, HRA iv,1,610; J.Morisset, Notes on Convicts, n.d.(1825?), CO 201/167, f.369.
269. Brisbane to Bathurst, 28 April 1823, 14 May 1825, HRA i,X1,78,574.
270. 1821 Muster, HRA i,X,575; Shaw, op.cit., p.366.

The problems were not new. Concern for the moral state of a predominantly masculine community had always overruled objections to transporting women but few denied that the assignment of the women as servants resulted in prostitution. Bigge considered that the character of most of the women and the sexual disproportions in the colony made such a situation inevitable.[271] Women convicts who were not assigned or who had been returned to government were kept at the Female Factory at Parramatta where they were employed in spinning and weaving wool. The Factory had been rebuilt between 1818 and 1821 but many of the women lived with the male convicts in Parramatta and the behaviour of those in the Factory was not supervised after working hours. Newly arrived women were accommodated with women under punishment or those who had been returned for misbehaviour. The Factory was managed by a superintendent under the control of the Parramatta magistrates and Bigge recommended that a free married woman with experience in factory or gaol management should be appointed in England to manage the Factory.[272] Mrs Elizabeth Fulloon was appointed in November 1823.[273]

Brisbane's ambitions for self-sufficiency extended to the Female Factory. The coarse woollen cloth made by the women sold well and in 1823 the Factory covered its expenses with a profit of £200.[274] It was still run profitably in 1825.[275] Brisbane was less pleased with its efficiency as a penal

271. Bigge, New South Wales, pp.105-106.
272. Ibid., pp.69-74,167-168; Shaw, op.cit., pp.100-101.
273. Wilmot-Horton to Brisbane, 5 November 1823, HRA i,X1,148-149.
274. Brisbane to (?), 26 July 1823, Brisbane Papers ML FM4/1626, Section 1.
275. Report of the Parramatta Grand Jury, 15 August 1825, HRA i,X1,861.

institution. The part-time and gratuitous supervision by a magistrate and government doctor was inadequate. The building was badly designed and Brisbane hoped that eventually the worst women would be imprisoned in Sydney and the Factory only used for the unassigned women.[276]

The resident magistrate who supervised the Factory for most of the period was Dr H.G.Douglass. Appointed by Macquarie, Douglass was constantly attacked during Brisbane's administration for his management of the women convicts. Since these attacks were motivated by reasons other than an interest in the welfare of the women convicts, it is difficult to assess their accuracy, though all had some substance of truth.[277] It was alleged that Douglass had seduced a girl from the Factory who was a servant in his home;[278] that he was unnecessarily harsh with the women at the Factory, inflicting additional punishments such as shaving their heads;[279] that he refused to allow the public baptism of the children in the Factory[280] and that he encouraged the prostitution of women from the Factory at Emu Plains.[281]

Although Brisbane publicly supported Douglass's management and declined to interfere,[282] by mid-1823 the constant disorder forced Brisbane to appoint the colonial secretary, Dr Donald Macleod the governor's physician and the Reverend

276. Brisbane to Craufurd, 14 September 1822, Brisbane Papers PRO PMG1/1.
277. See Chapter 7.
278. Brisbane to Bathurst, 6 September 1822, with encls., HRA i,X,744-780.
279. Oakes to Goulburn, 24 June 1822, CSIL 4/1757, f.167; Complaints from seven women, n.d.(1822?), CSIL 4/1763, f.301.
280. Marsden to the Bishop of London, 10 July 1823, CO 201/156, f.178; Bathurst to Brisbane, 30 October 1824, HRA i,X1,388-389; Scott to Wilmot-Horton, 20 June 1825, CO 201/168, f.164.
281. Brisbane to Bathurst, 10 September 1825, HRA i,X1,812-831. See below.
282. Bathurst to Brisbane, 30 October 1824, ibid., p.389.

Thomas Reddall to investigate the Factory.[283] Their report has not survived but there were no further serious complaints. Nevertheless, in late 1824, Bathurst placed the Female Factory under the direct control of the governor and the legislative council.[284]

By 1825, additions to the Factory allowed sixty women under punishment to be confined separately and there was accommodation for fifty women second offenders at Port Macquarie.[285] When the legislative council took control of the Factory, the women were divided into three categories. Well-conducted women who were difficult to assign because they had dependent children were employed spinning and carding wool and were allowed a proportion of the profits from their work. The second and third groups were penal categories of varying severity for assigned women who had misbehaved or those who had committed offences. The second class was employed in textile manufacture but was not available for assignment. The third class was set to hard labour such as moving earth or breaking rocks.[286]

In February 1821 when the women moved into the new Factory, it housed 112 women, of whom forty were under punishment.[287] By mid-1823, there were nearly 200 women with their children and by 1825 the number varied from 225 to 250 women and a

283. Brisbane to Goulburn, 28 July 1823, CSIL 4/1765, f.180.
284. Bathurst to Brisbane, 21 November 1824, HRA i,XI,418. This was a result of the attacks on Douglass. See Chapter 7.
285. Brisbane to Wilmot-Horton, 24 March 1825, ibid., p.557.
286. New South Wales Legislative Council, Minutes of Proceedings 1824-1825 (Sydney, 1847), 31 May, 9 August 1825, p.14,19; S.G., 8 December 1825.
287. Bigge, New South Wales, p.73.

number of children.[288] Some were recent arrivals but most had committed offences in the colony.[289] This was almost one-quarter of the women convicts. The remaining women were assigned servants in Sydney, where 268 of the 999 women convicts lived, or in Parramatta, where there were 112 women convicts outside the Factory, and the others were scattered in small groups throughout the colony.[290]

From May 1822, as an alternative to the overcrowded Factory and the doubtful reformation of assignment, thirty-two women were sent from the Factory to do light field work at Emu Plains. Most had arrived on ships at the end of 1821.[291] Additional overseers were employed at Emu Plains and were dismissed if there was evidence of improper conduct.[292] Between June 1822 and October 1824, twenty-seven women were discharged from Emu Plains either as assigned servants with their husbands or returned to the Factory.[293]

The new scheme attracted little comment until 1825 when it was alleged that the women were prostitutes for the convicts at Emu Plains, with the knowledge and co-operation of senior officials, including the governor.[294] It was rumoured that the women had been sent to prevent "unnatural crimes" among the male convicts.[295] Sir John Jamison, who made the charges, claimed that there had been no complaints of sodomy while he

288. Marsden to the Bishop of London, 10 July 1823, CO 201/156, f.178. Report of the Parramatta Grand Jury, 15 August 1825, HRA i,XI,860; Darling to Murray, 18 February 1829, HRA i,XIV,651.
289. Scott to Wilmot-Horton, 20 June 1825, CO 201/168, f.164.
290. Colonial Returns 1825.
291. Most had arrived on the John Bull and the Providence. Convict Returns, Emu Plains 1822-1824, Miscellaneous Convict Returns 1822-1825, CS-SB 2/8283, p.113 ff.; C.Bateson, The Convict Ships 1787-1868 (1959 and Sydney, 1974), p.383.
292. S.G., 10 May, 14 June, 27 September 1822.
293. Convict Returns, Emu Plains 1822-1824, Miscellaneous Convict Returns 1822-1825, CS-SB 2/8283, p.113 ff.
294. Jamison to Hall, 20 September 1822, CO 201/169, f.93. Another copy in Brisbane Papers ML UCMSS 329. See Chapter 7.
295. Ibid.

was magistrate near Emu Plains but Brisbane and the commandant at Newcastle believed that it was common.[296] The Sydney Gazette praised the clearing gangs for removing from the convict barracks "a sin of iniquity".[297]

Though the authorities may not have sent the women to Emu Plains as prostitutes, neither Brisbane nor anyone else was surprised at the existence of prostitution there.[298] Even Jamison did not object to the prostitution as such. He believed that the women should have been volunteers.[299] Both colonial papers favoured the experiment. It had made "honest" married women of a number of them, which was a definite improvement on the "abandoned wretches" in the Parramatta Factory. The concentration of so many male convicts in "yon Gomorrah" was unavoidable but the situation could be improved by the distribution of more women, even if they were prostitutes.[300] To the Sydney Gazette and the Australian, the allegations were irrelevant and women at Emu Plains were an improvement in the management of both male and female convicts. Privately the governor agreed:

> I cannot but view my experiment of having rendered the Prostitutes honest women by marriage, as one of the most valuable experiments I have adopted here,...In a country where the proportion of one sex is alarming, when compared with the other; It is quite clear that every woman who goes out from the Factory to service, is a w----, and in the eye of the moral law, is equally clear that it's unimportant whether she be a w---- at Sydney, Parramatta or Emu Plains, and unless women are denied service altogether from the Factory, it is impossible to guard against it. [301]

296. Jamison to Hall, 20 September 1822, CO 201/169, f.93; Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329; J.Morisset, Notes on Convicts, n.d.(1825), CO 201/167, f.363.
297. S.G., 28 April 1825.
298. Brisbane to Bruce, 20 May 1825, Brisbane Papers ML FM4/1626, Section 1.
299. Jamison to Hall, 20 September 1822, CO 201/169, f.93.
300. Australian, 7, 21 April 1825; S.G., 28 April 1825.
301. Brisbane to Bruce, 20 May 1825, Brisbane Papers ML FM4/1626, Section 1.

Publicly, Brisbane was horrified by the allegations and ordered an immediate inquiry. None of the women was questioned and only one overseer gave evidence, reflecting the belief that the allegations were directed against senior officials rather than against the management of the women convicts. The inquiry reported that there had been illicit relations between the women and the male convicts and overseers but these relationships had been voluntary and were initiated by the women. Reports of disease were untrue and the colonial secretary had discontinued the scheme when three women became pregnant. Twenty-four of the thirty-two women had married, representing greater reformation than among any other group of women convicts.[302] Outside official circles, there were doubts that marriage reformed the women.[303]

Many of the problems at Emu Plains arose from the small ration that the women received. Mary McCue, who was there for seven months in 1822, complained that she was unable to do field work on her rations. She was an old woman and could not earn extra rations by prostitution as did the younger women. She spiritedly told the superintendent that "she neither would nor should be made a whore by him" and refused to work until she was returned to the Factory.[304] The male convicts paid the women with their rations and many then absconded to find food for themselves.[305] The women suffered the greatest

302. Report of the Commissioners of Enquiry, 7 September 1825, HRA i,XI, 814-831. For other aspects of this inquiry see Chapter 7.
303. Green to Jamison, 3 June 1826, CO 201/182, f.327.
304. Ibid.; Green to Jamison, 1 May 1826, ibid., f.313.
305. Jamison to Bathurst, 10 May 1827, encl., CO 201/188, f.336.

physical abuse from the overseers.[306]

Any assessment of convict policy in New South Wales must consider the different attitudes of the British and colonial governments toward indulgences, remissions and punishments. The British government was concerned that transportation should be a severe punishment. In each report of the success of a pardoned convict, there was a disproportionate example that transportation offered advantages not punishment. In New South Wales, many agreed that summary punishment was the only way to manage convicts[307] but this attitude was tempered by recognition that incentives were also necessary to ensure good behaviour and reformation.

The ticket of leave system had emerged as the most effective incentive for good conduct. Tickets of leave were given to convicts for consistent good behaviour over a certain period and entitled the convict to work for himself within a specified district. Macquarie had regularized the system in 1811 but with the increasing problem of employing convicts, he had given tickets of leave to those convicts most able to support themselves. Furthermore, ticket of leave convicts did not receive government rations so were not an expense for the administration. Tickets of leave were criticized in Britain because the convicts suffered little punishment and were virtually unsupervised.[308]

Brisbane believed that the ticket of leave was an important

306. Green to Jamison, 1 May, 3 June 1826, CO 201/182, ff.315-316,237.
307. Marsden to Bigge, 11 February 1822, ML BT Box 27, p.6520; Cunningham, op.cit., p.333.
308. Bathurst to Sidmouth, 23 April 1817, Instructions to Bigge in Bigge, New South Wales, p.6; Ibid., pp.119-120.

incentive for reform but he was determined that it should depend on good conduct and be revokable if this behaviour was not maintained.[309] In November 1822, new regulations restructured Macquarie's system on a more inflexible pattern to ensure consistency and impartiality. A convict had to serve a fixed proportion of his sentence, four years of a seven year term, six years of a fourteen year sentence and eight years of a life sentence, in the service of one, two or three masters who would testify to his consistent good and industrious behaviour. The master's testimony had to be supported by the resident magistrate and clergyman and the convict was ineligible if he had been convicted of a misdemeanour while in the colony. The periods of service were strictly enforced and the tickets were issued weekly by the colonial secretary's office. From January 1823, they were published in the Sydney Gazette.[310]

Brisbane's regulations removed objections that the tickets had only been issued once a year and that the applicant was not always well-behaved.[311] Although the new regulations continued to specify a period of residence, which to Bigge and the British government implied that the ticket was automatic after that time, [312] the emphasis was on consistent good behaviour and steady employment and the residence period disqualified recently arrived convicts who had received tickets under Macquare. Unlike Macquarie, who was known to make constant exceptions to his regulations,[313]

309. Brisbane to (?), 26 July 1823, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Bruce, 18 October 1823, Brisbane Papers ML UCMSS 329.
310. Brisbane to Bathurst, 28 April 1823, HRA i,X1,78,81-82; S.G., 8 November 1822, 18 August 1825.
311. Bigge, New South Wales, pp.120-121,170-171.
312. Bathurst to Brisbane, 9 September 1822, HRA i,X,789-790.
313. Bigge calculated that 450 of 1,655 tickets of leave issued by Macquarie were contrary to his own regulations. Bigge, New South Wales, p.122.

Brisbane's administration was praised for its impartiality and regularity.[314] Tickets of leave were given to eligible convicts in government service, including mechanics, in contrast to the reluctance of Macquarie's government to release such men.[315] There were still some irregularities. The convict mason who worked on Brisbane's observatory was rewarded with permission to work for himself.[316] Tickets of leave were offered for the capture of bushrangers, irrespective of the character of the informant.[317]

Brisbane gave substantially more tickets of leave than did Macquarie. This was not reflected in the muster returns which show an increase of only 499 ticket holders between 1821 and 1825, with a total of 2,078 in 1825.[318] The inconsistencies were due to expiration of sentence, withdrawal of tickets and death. A significant variation was the reduction, by over one half, of the number of women convicts holding tickets of leave, from 313 in 1821 to 129 in 1825.[319]

Over 2,000 tickets of leave were issued between 1822 and 1825. The Sydney Gazette published 1,600 between 1823 and 1825 and the incomplete ticket of leave register numbered the last ticket for 1825 as 2,137. The register listed 909 tickets of leave between July 1824 and December 1825 and Darling reported that 588 tickets were issued in 1825.[320] In comparison, Macquarie

314. Farewell Address to Brisbane, 26 October 1825, HRA iv,1,628.
315. Bigge, New South Wales, p.34; Register of Tickets of Leave, July 1824 to March 1827, AONSW 4/4060.
316. Rouse to Goulburn, 26 November 1824, CSIL 4/1777, f.136.
317. e.g. S.G., 2 August 1822.
318. 1821 Muster, HRA i,X,575; Colonial Returns 1825.
319. Ibid.
320. Register of Tickets of Leave, July 1824 to March 1827, AONSW 4/4060; Darling to Bathurst, 5 May 1826, HRA i,X11,268.

gave 205 tickets in 1819 and 365 in 1820.[321] The higher figures were probably due to the large number of convicts who had arrived since 1815 and were now eligible under the new regulations.

Tickets of leave were a fragile status, liable to be rescinded instantly if the convict was brought before a magistrate for misbehaviour. There was no appeal or defence and there were reports of malicious accusations to provoke the withdrawal of a convict's ticket.[322] In spite of Bigge's objections to ticket of leave men acquiring property, this continued and many behaved virtually as free men.[323] In 1826, Darling prohibited ticket of leave men from becoming publicans.[324]

The ticket of leave system was an incentive for reform but many settlers were not interested in this, regarding their convicts as a cheap and servile labour force. When useful convicts received their tickets of leave, they had to be paid wages and masters objected to losing their best men and paying wages.[325] Brisbane's new system of assigning convicts with land grants also caused difficulties since an attached convict had to be replaced by another to maintain the proportion of convicts before he could be released on a ticket of leave.[326] The magistrates suggested an annual court of appeal to ensure that deserving convicts were able to get tickets of leave despite opposition from their masters but

321. Bigge, New South Wales, p.119.
322. S.G., 18 August, 7 November 1825.
323. Bigge, New South Wales, p.171. For example, Laurence Halloran, the school teacher. James Ring was assumed to have a ticket of leave because he behaved as a free man, though in fact he was still an assigned convict. See Chapter 7.
324. Darling to Bathurst, 1 May 1826, HRA i,X11,248-250.
325. Forbes to Wilmot-Horton, 6 February 1825, Catton Papers, Derby.
326. Atkinson to Goulburn, 10 October 1824, CSIL 4/1780, f.298.

this proposal was not officially adopted.[327] Under the new regulations, a convict was entitled to know why his ticket of leave had been refused.[328]

A further incentive for good behaviour was the possibility of receiving a pardon from the governor. An absolute pardon remitted a convict's sentence unconditionally but a conditional pardon was valid only if the convict remained in the colony until the end of his original sentence. In 1813, Macquarie fixed a period of residence as a precondition for a remission. To receive an absolute pardon, a convict had to serve fifteen years of a life sentence and three-quarters of shorter sentences. Conditional pardons required ten years served of a life sentence and two-thirds of the original term of shorter sentences. Applications, certified by clergy and magistrates, were received only once a year.[329] As with tickets of leave, the time period raised expectations of automatic remissions and Bigge recommended that it be omitted.[330] Brisbane retained these regulations as guidelines.[331]

The registers of conditional and absolute pardons for Brisbane's administration list 115 conditional pardons and thirty-four absolute pardons.[332] Eight of the absolute pardons were ordered by the Colonial Office.[333] In addition, Brisbane left 171 conditional pardons and fourteen absolute pardons to be formalized after his departure.[334] These were considerably fewer pardons than Macquarie, who gave 247 conditional and

327. Minto Magistrates to Brisbane, - September 1823, CSIL 4/1769, f.129.
328. Brisbane to Bathurst, 14 May 1825, HRA i,X1,578.
329. Bigge, New South Wales, p.119.
330. Ibid., p.169.
331. Brisbane to Bathurst, 28 April 1823, HRA i,X1,78.
332. Register of Conditional Pardons 1791-1825, AONSW 4/4430; Register of Absolute Pardons 1791-1825, AONSW 4/4486.
333. Brabazon, Levens, W.S.Smith, McLeod, Reilly, J.Smith, Fitzgerald and William Gore. HRA i,X & X1.
334. S.G., 28 November 1825.

thirty absolute pardons in 1819 and 1820 alone.[335] Only twenty of Brisbane's 115 conditional pardons had not fulfilled the required length of service but, excluding the Colonial Office pardons, half of the absolute pardons had served less than the required proportion of their sentences.[336]

Both Macquarie and Brisbane were criticized for pardons given as rewards for services without consideration of character or the nature of the original offence. Throughout Brisbane's government, conditional pardons were offered as rewards for the capture of bushrangers and absolute pardons for information leading to the conviction of murderers.[337] Brisbane was particularly criticized for pardoning convict servants to allow them to return to Britain with their masters. Brisbane granted at least eight absolute pardons at the particular request of settlers and five of these were to allow the convict to return to Britain.[338] In September 1822, he pardoned three convicts to return with Captain P.P.King and only one of these pardons conformed with regulations.[339]

The most indiscreet pardon of this nature was that given to Andrew White in 1824 at the request of Dr H.G.Douglass so that White could go to England with him.[340] White had been transported for fourteen years in 1821 and the Colonial and Home Offices objected not only to the short period he served but the fact that White had been transported for treason.[341] The governor could not pardon treasonable crimes

335. Bigge, New South Wales, p.119.
336. Register of Conditional Pardons 1791-1825, AONSW 4/4430; Register of Absolute Pardons 1791-1825, AONSW 4/4486.
337. e.g. S.G., 2 August 1822, 29 September 1825.
338. Hobhouse to Hay, 30 November 1825, CO 201/164, f.276.
339. King to Brisbane, 14 July, 9 September 1822, CSIL 4/1761, f.18,165; Absolute Pardons for W.Cobbee, M.Lenny and J.Hannah, 1822, Register of Absolute Pardons 1791-1825, AONSW 4/4486.
340. Douglass to Wilmot-Horton, 17 September 1824, CO 201/155, f.398.
341. Absolute Pardon for A.White, 1824, Register of Absolute Pardons 1791-1825, AONSW 4/4486; Hobhouse to Hay, 30 November 1825, CO 201/164, f.276.

without direct orders from the British government.[342] White's case highlighted a major administrative flaw. The British authorities were emphatic that a convict's treatment in the colony should be related to the offence for which he had been transported.[343] However, this information was rarely available in New South Wales and it was not until 1826 that the nature of the offence became a routine item in the convict records sent to the colony.[344] In March 1825, Bathurst criticized Brisbane for the "improvidence" of recent colonial pardons without respect to the crime for which the convict had been transported.[345] Brisbane misinterpreted this as criticism of the number, rather than the nature, of his pardons.[346]

As the colony expanded, it was more difficult for the governor to know the merits of those who petitioned for pardons. He had to depend on the integrity of the magistrates and settlers to recommend suitable people. In March 1825, Brisbane was indignant at the colonial secretary's delay in pointing out the irregularities in some of his pardons and he ordered that a list of all shortened pardons with their reasons be sent to the attorney-general to check their legality.[347] In November 1825 when preparing the final act of grace of his government, traditionally an occasion for liberal pardons, Brisbane convened a board of five senior officials and a clergyman to consider applications for pardons,

342. Brisbane's Commission, 3 February 1821, HRA i,X,591-592.
343. Bathurst to Brisbane, 9 September 1822, ibid., pp.784-785; Bathurst to Brisbane, 18 March 1825, HRA i,X1,545.
344. L.L.Robson, The Convict Settlers of Australia (Melbourne, 1976), pp.173-174
345. Bathurst to Brisbane, 18 March 1825, HRA i,X1,545.
346. Brisbane to Bathurst, 30 September 1825, ibid., pp.862-963.
347. Brisbane to Goulburn, 23 March 1825, CSIL 4/1785, f.168.

though cases of general merit which did not meet the regulations were to be considered.[348]

A large number of pardons were approved at this time. Colonial opinion accepted that their selection had been careful but Darling disagreed. He criticized their informality, the lack of documentation and the character of some of the convicts.[349] The Colonial Office objected to the number after Brisbane had assured it that he had given few pardons.[350] Brisbane considered that in view of the small number of pardons and the fact that he had never exercised "any discretion of my own, subversive to Colonial Regulations", his final pardons should be accepted.[351] The Home Office was given the opportunity to veto these pardons before they were confirmed.[352]

Parallel with rewards was the necessity for effective punishments. Masters could not flog their assigned convicts and complaints of idleness, insolence, theft or absconding were brought before the local magistrate. Magistrates acting alone could order a maximum of fifty lashes and a bench of magistrates could order as many as 200 lashes and transportation for a year to a penal station.[353] The chief engineer could not have a government convict flogged without reference to the superintendent of convicts or police. Punishments included return to government service, confinement to barracks, additional work, solitary confinement on bread and water, flogging or transportation to a penal station. Solitary confinement and

348. Brisbane to Goulburn, Lithgow, Cowper, Oxley, Rossi and Fennell, 24 November 1825, CSIL 4/1788, f.155.
349. S.G., 1 December 1825; Darling to Hay, 30 April 1826, HRA i,X11,247-248.
350. CO Minute, 29 September 1826, CO 201/171, f.137.
351. Brisbane to Bathurst, 16 October 1826, CO 201/178, f.143.
352. CO Minute, ibid.
353. Bigge, New South Wales, pp.100-101.

transportation were more feared than corporal punishment.[354]

The Reverend Samuel Marsden claimed that corporal punishment increased after Macquarie's administration with brutal sentences of 500 lashes in reaction to the leniency that had sometimes been apparent under Macquarie.[355] The enduring reputation for severity drew on the much publicized allegations that a Parramatta magistrate, Dr H.G.Douglass, ordered a convict flogged daily until he confessed the location of stolen property.[356] Though arbitrary and indeterminate punishments had been common before the 1823 New South Wales Act came into force,[357] the generalized accusation of severe floggings during the Brisbane period was not confirmed in the surviving records and was denied by contemporary opinion.

During Brisbane's administration, the commandants and superintendents of the government establishments were instructed to reduce corporal punishment in favour of solitary confinement and smaller rations.[358] In 1823, the British government ordered the gradation of rations so that convicts who refused to work would be given the smallest ration consistent with their health.[359] Convicts under the chief engineer received coarser quality and less food to increase the attractions of private assignment.[360] From 1822, flogging

354. Evidence of D.Wentworth, Ritchie, Bigge - Oral Evidence, p.42,44; Evidence of G.Druitt, ibid., p.19,21-22,35-37; Bigge, New South Wales, p.35; Cunningham, op.cit., p.311.
355. A.T.Yarwood, Samuel Marsden. The Great Survivor (Melbourne, 1977), p.228; Marsden to Bigge, 11 February 1822, ML BT Box 27, p.6520.
356. A.Harris, Settlers and Convicts or Recollections of Sixteen Years' Labour in the Australian Backwoods by an Emigrant Mechanic (1847 and Melbourne, 1953), p.9,61; R.Therry, Reminiscences of Thirty Years' Residence in New South Wales and Victoria (1863 and facsimile edition Sydney, 1974), pp.43-45. See Chapter 7 for the case of Henry Bayne.
357. Forbes to Wilmot-Horton, 30 October 1825, HRA i,X1,952-953; Shaw, op.cit., pp.193-194.
358. Brisbane to Miller, 27 August 1824, CSOL 4/3512, p.276.
359. Bathurst to Brisbane, 5 September 1823, HRA i,X1,135-137.
360. Ovens to Goulburn, n.d. (1824?), ibid., pp.653-654.

was abandoned in government gangs and, in place of sending the convict to a magistrate for punishment, the chief engineer used leg irons with logs attached, whose size and weight varied with the offence. These were more efficient than flogging because they were "degrading to the notorious and hardened offender, less repulsive to humanity".[361] Observations on the decline of flogging were repeated in 1825.[362]

The average magisterial punishment under Macquarie's administration was fifty lashes.[363] This continued during Brisbane's government, particularly in areas where gaol facilities were limited and alternatives to the summary convenience of corporal punishment were not available for minor offences. Some considered that fifty lashes was not severe enough to be a deterrent.[364]

The records of the benches of magistrates show that more than half the sentences of country magistrates were for corporal punishment, generally for fifty lashes except in the isolated district of Bathurst. Between January and March 1824, the Evan bench punished sixty-eight of ninety-one cases by flogging. Seventeen received twenty-five lashes and thirty-eight, fifty lashes with only seven receiving seventy-five lashes and six, 100 lashes.[365] Between September and December 1824, the Liverpool magistrates sentenced fifty-five prisoners. Of the forty-six who were flogged, half

361. S.G., 1 November 1822.
362. S.G., 3 February 1825; Weekly Commercial Express, 13 June 1825.
363. Evidence of Druitt, Ritchie, Bigge - Oral Evidence, p.36.
364. Cunningham, op.cit., pp.346-347.
365. Return of Convicts Tried before Magistrates, 1823-1824, AONSW 4/6671.

received fifty lashes and only four 100 lashes. At Bathurst, nine of twelve convicts punished in December 1823 received 100 lashes and four of seven punished in August 1824 received 100 lashes for offences such as refusing to work, using threatening and abusive language and for being bad characters. Of 183 punishments from the Parramatta bench between July and September 1824, only fifty-three were flogged of whom thirty-one received fifty lashes.[366]

The records of the Parramatta bench for 1822 include sentences for 200 lashes and transportation to Port Macquarie but in most instances half the lashes were suspended. If the corporal sentence was for insolence or absence from work, the punishment was often suspended on a promise of good behaviour. Thomas Wardell was punished in July 1822 for disobedience to his master and insolence to the magistrates. He was sentenced to 200 lashes and a week in gaol on bread and water but 100 lashes were remitted. In August 1822, Dennis Doyle, an "incorrigible character" who had been absent from his master for a month and was found drunk on half a gallon of rum, was sentenced to 100 lashes, gaol on bread and water for a month and then sent to Emu Plains.[367]

An alternative punishment favoured by Brisbane was the treadmill. In mid-1823, extensions were made to the Carters' Barracks in Sydney to install a treadmill so that a regular and monotonous form of hard labour would be available for punishment.[368] In late 1824, Brisbane requested machinery for six additional treadmills following the success of the ones

366. Return of Convicts tried before Magistrates, 1823-1824, AONSW 4/6671.
367. Return of Proceedings taken at the Magistrates' Court, Parramatta, January - September 1822, AONSW X643.
368. Goulburn to Ovens, 11 June 1823, CSOL 4/3508, p.480; Brisbane to (?), 26 July 1823, Brisbane Papers ML FM4/1626, Section 1.

already installed.[369] The Sydney magistrates were the only ones who regularly gave sentences for the treadmill.[370]

Problems arose when there were insufficient convicts under punishment to operate the treadmills.[371] In early 1825, there were 120 convicts on the two Sydney treadmills who were paid ½d per day and newly arrived convict boys also worked on them.[372] A committee appointed later in the year to investigate the treadmills reported that there was little differentiation whether the convicts chosen were guilty of felonies or misdemeanours. Although uncertain that it was a reformatory punishment, it concluded that the punishment was effective because no man could evade his share of the work which was dull and monotonous. The committee was impressed that the treadmill was a commercially viable project and clearly the economy of grinding the government's grain threatened its efficiency as a punishment.[373]

There was concern at the Colonial Office and in the colony that Brisbane was too lenient toward the more serious offenders who had committed crimes in the colony. The British government was annoyed when Brisbane referred serious criminal cases back to Britain. It was difficult to order executions so long after the sentence had been passed and when limited evidence was available.[374] Brisbane's personal abhorrence of capital punishment resulted in a policy of commuting capital sentences to life in chains at a secondary

369. Brisbane to Bathurst, 9 November 1824, HRA i,X1,417.
370. Return of Convicts tried before Magistrates, 1823-1824, AONSW 4/6671.
371. Brisbane to Goulburn, 9 March 1825, CSIL 4/1782, f.22.
372. Brisbane to Wilmot-Horton, 31 January 1825, Catton Papers, Derby; Australian, 13 January 1825.
373. S.G., 7 July, 12 December 1825.
374. Hobhouse to Wilmot-Horton, 31 August 1824, HRA i,X1,377.

penal station. If the convict escaped, the original sentence was carried out when he was recaptured. Brisbane commuted all capital sentences except those for murder or crimes with violence and this led to tension with Judge Wylde. The Home Office disapproved of the governor granting reprieves against the advice of the presiding judge.[375]

There was considerable disproportion between capital sentences and executions. Whilst Macquarie executed about half those sentenced to death between 1819 and 1821, in 1822 only nineteen were executed out of seventy-five capital convictions. In 1823, only six were executed out of forty-eight and in 1824 four, all for murder, out of twenty-nine convictions.[376] By March 1824, three capital respites had been executed after escaping from Port Macquarie. In August 1825, another four were executed though there were rumours that capital respite escapees would be sent to Norfolk Island in future.[377]

Brisbane received great personal satisfaction from his policy. The death penalty was not a deterrent for serious crimes and he thought that the dread of Port Macquarie or Norfolk Island was more effective.[378] He pointed to the decline in capital convictions as proof of the success of his policy.[379] However, there were strong feelings in the colony that indiscriminate mercy was an abuse of power. Commutation

375. Brisbane to Bathurst, 27 November 1823, HRA i,X1,174-175; Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329; Wylde to Brisbane, 6 May 1822, HRA i,X,717-718; Hobhouse to Wilmot-Horton, 31 August 1824, HRA i,X1,377.
376. Brisbane to Bathurst, 28 January 1825, encl., HRA i,X1,479.
377. S.G., 11 March 1824, 11 August 1825; Weekly Commercial Express, 18 July 1825.
378. Brisbane, Diary, - 1823, Brisbane Papers ML UCMSS 419, Part 1, p.6; Brisbane to Forbes, 14 June 1825, Chief Justice's Letter Book 1824-1835, AONSW 4/6651, p.38.
379. Brisbane to Craufurd, 8 April 1823, Brisbane Papers PRO PMG1/1; S.G., 12 February 1824.

of capital sentences made the court too lenient and even Forbes, who accepted Brisbane's commutations more equably than had Wylde, suggested that occasional executions for certain offences were necessary deterrents.[380] Solicitor Allen thought the governor's leniency was wasted on the "abandoned profligates" to whom it was mainly extended. Many had been condemned to death in Britain and successive reprieves had lessened their fear of the death penalty.[381]

There were progressively fewer cases before the criminal courts between 1822 and 1824[382] but the colonists were less optimistic than Brisbane that this was due to any moral improvement. Although Peter Cunningham thought there was less crime than was constantly discussed,[383] the Sydney Gazette in December 1824 pointed to the alarming number of runaway convicts and the prevalence of theft and murder and urged stiffer penalties.[384] Cunningham agreed that under Brisbane's government there were no effective deterrents and not even Port Macquarie was feared.[385] Archdeacon Scott, returning after a five year absence, commented that there was more outward respectable behaviour than during his previous visit but, he continued, atrocious crimes were frequently committed and drunkenness and profligacy were part of the lives of even those in authority, though not practised as openly as before.[386]

The Wesleyan missionary Benjamin Carvosso, Scott and

380. S.G., 31 March 1825; Forbes to Brisbane, 7 June 1825, Chief Justice's Letter Book 1824-1835, AONSW 4/6651, p.37.
381. G.W.D.Allen, Early Georgian. Extracts from the Journal of George Allen 1800-1877 (Sydney, 1958), p.81.
382. Brisbane to Bathurst, 28 January 1825, encl., HRA i,X1,476-477.
383. Cunningham, op.cit., pp.38-40.
384. S.G., 16 December 1824.
385. Cunningham, op.cit., pp.280-281.
386. Scott to Wilmot-Horton, 20 June 1825, CO 201/168, f.164.

Brisbane believed that the worst crimes were committed by uneducated Catholic Irish convicts.[387] Others observed that many crimes were committed by convicts who had arrived within the previous few years.[388] In spite of the predominance of former convicts in the colony, few returned to crime. Between 1810 and 1823, less than ten per cent of those found guilty of major crimes had been convicts though thirty-one per cent of convicts still under sentence committed further crimes in the colony.[389]

The most frequent crimes were breaking and entering, theft, receiving stolen goods, highway robbery and sheep and cattle theft. The colonists and the local administration believed that the greatest threat to public order was the large number of runaway convicts who turned to bushranging. Bigge had commented that the concentration of settlement in the Cumberland Plain provided few temptations for bushranging compared with conditions in Van Diemen's Land.[390] However, the rapid expansion of settlement during Brisbane's government, accompanied by the large dispersion of convict servants, altered this situation.

Convicts absconding from assignment, government gangs or penal stations were harboured, willing or not, by other convicts or ex-convict settlers in outlying areas.[391] Many of the runaways turned to petty theft or bushranging, plundering carts and attacking isolated huts for food and property. In March 1823, the Sydney Gazette commented that absconding convicts

387. Carvosso to Wesleyan Committee, 16 November 1822, ML BT Box 52, p.1197; Brisbane to Bathurst, 28 October 1824, HRA i,X1,382; Scott to the Bishop of London, 1 July 1825, Fulham Papers, Vol.1, p.757 ff., United Society for the Propagation of the Gospel, London; J.Waldersee, Catholic Society in New South Wales 1788-1860 (Sydney, 1974), pp.69-70.
388. S.G., 28 October 1824.
389. Brisbane to Bathurst, 2 February 1824, encl., CO 201/150, f.24; Shaw, op.cit., p.227.
390. Bigge, New South Wales, p.102.
391. S.G., 21 October 1824, 10 October 1825.

once ran away to Sydney but now they all took to the bush.[392] The worst affected areas were the distant settlements at Bathurst, the Hunter Valley and in the southern districts such as Minto where by February 1824 it was impossible to travel at night without being held up by bushrangers.[393]

In March 1822, the colonial secretary reminded the superintendent of convicts that physical descriptions of runaway convicts should be advertized in the Sydney Gazette until they were apprehended, a practice which had been ignored in recent years.[394] During 1822 there was a steady increase in the number of runaway convicts advertized in the Sydney Gazette but from 1823 the numbers escalated alarmingly. Weekly lists of twenty-five to thirty-five convicts at large in 1822 climbed to eighty-five and ninety-five in 1823. By the second half of 1824, weekly lists of 150 were common, about one-third of whom had been absent for a year or more. Over 2,500 convicts absconded between 1822 and 1825, increasing from 211 in 1822 to 742 in 1823, 714 in 1824 and 860 in 1825.[395]

The most common theory for the dramatic increase was that although Brisbane's administration was mild, there was increased severity at lower levels of convict supervision. Cash rewards to overseers and superintendents for increased productivity led to brutality and their convicts ran away.[396] Others believed that reduced rations because of grain shortages in 1824 drove the convicts into the bush to seek extra food.[397] The high number of runaways from Emu Plains was attributed to

392. S.G., 20 March 1823.
393. S.G., 12 February 1824, 28 July, 10 October 1825.
394. Goulburn to Hutchinson, 28 March 1822, CSOL 4/3505, p.74.
395. List of Absconding Convicts 1822-1825, AONSW 4/4525; S.G., 21 July 1825.
396. "Scrutator", S.G., 11 November 1824; "Emigrant", S.G., 3 February 1825; Australian, 27 January 1825.
397. "Cestria", S.G., 30 December 1824.

food shortages.[398] Brisbane thought the increase in runaways due to the greater amount of labour required from them.[399] Judge Forbes agreed, though reduced allowances contributed.[400]

There had been predictions that any rapid dispersion of convicts would lead to banditry [401] and there was considerable agreement that the clearing gangs and convicts attached to land grants contributed to the runaway problem.[402] The comparative ease of escape from the clearing gangs and the penal establishments was in itself a temptation.[403] Emu Plains lacked security and its proximity to the settled districts exposed local inhabitants to violence from escaping convicts.[404] The commandant at Port Macquarie noted that many convicts escaped to risk starvation in the bush, spurred by the "faint and ill-founded hope of obtaining what they term their liberty".[405]

Government measures were criticized as ineffective, if not actually contributing to the problem. Rewards in cash or conditional pardons were offered for the apprehension of bushrangers[406] but there were accusations that the reward of 5s for every week that a runaway was advertized in the Sydney Gazette made it more profitable for the police to delay capture.[407] In 1822 rewards were paid for the capture of 148 runaways, seventy per cent of those absconding, but in 1823 and

398. Green to Jamison, 3 June 1826, CO 201/182, f.326; Jamison to Bathurst, 10 May 1827, encl., CO 201/188, f.336.
399. Brisbane to Bathurst, 28 January 1825, HRA i,X1,477.
400. Forbes to Wilmot-Horton, 6 February 1825, Catton Papers, Derby.
401. Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329.
402. Jacob to Bathurst, 7 September 1822, HRA i,X1,53; S.G., 3 February 1825; J.Atkinson, op.cit., p.88.
403. J.Macarthur jr to Wilmot-Horton, 18 July 1825, CO 201/167, f.310.
404. J.Atkinson, op.cit., p.141.
405. Rolland to Goulburn, 20 October 1824, CSIL Port Macquarie 4/1815, f.463.
406. e.g. S.G., 2 August 1822, 8, 29 September 1825.
407. S.G., 22 March 1822, 3 February 1825; Australian, 30 December 1824.

1824, though 263 and 272 runaways were apprehended, these were only one-third of the absentees.[408]

In February 1825, Brisbane offered a six week amnesty to runaways if they returned to their employments.[409] The Australian condemned this as a "licence to plunder with impunity".[410] Alexander Kinghorne, the new superintendent at Emu Plains, complained that runaways had increased since the amnesty was announced as convicts took advantage of a brief escape without fear of punishment when they returned.[411] The terms of the amnesty were consequently changed to exclude escapees from government establishments.[412]

After the amnesty, the reward system was restructured but the new rewards of $4 if the runaway had been absent for less than a month and $8 for longer did not offer greater incentives for quick recapture.[413] As part of the new system, the Sydney Gazette published descriptions only of those who had been absent for less than three weeks, with a quarterly return of all convicts illegally at large. The numbers for three weeks were higher than the full lists in 1822 and indicated the continuing problem for the authorities.

Law and order was enforced by a combination of the local police, the regiment garrisoned in the colony and the magistrates. Detachments of soldiers sent to the new northern settlement at Melville Island,[414] Moreton Bay and Norfolk Island reduced the troops available in the main settlement and

408. Colonial Fund 1822, S.G., 30 January, 20 February, 6 March, 17 July 1823; Colonial Fund 1823, S.G., 18, 15 December 1823, 8 January 1824, 24 February 1825; Colonial Fund 1824, S.G., 3, 6, 10 October 1825.
409. S.G., 10 February 1825.
410. Australian, 7 April 1825.
411. Kinghorne to Goulburn, 16 February 1825, CSIL 4/1783, f.141.
412. S.G., 17 February 1825.
413. S.G., 31 March 1825; Rossi, Report on the Police, 7 October 1826, HRA i,X11,682.
414. Bathurst to Brisbane, 17 February 1824, HRA i,X1,227-229.

emergencies such as martial law against Aboriginal attacks in 1824 revealed these inadequacies.[415] The soldiers were sometimes unco-operative about convict supervision[416] and there were doubts that they could be used against the bushrangers.[417] Though the military was mobilized for these duties, there were complaints that soldiers were kept in Sydney and not in the areas where the convicts were now located.[418]

Police measures had not kept pace with the spread of settlement. In the south and south-western districts there was not even a secure lock-up and most districts relied on the personal courage of the local magistrate and resident settlers to lead forays against bands of bushrangers.[419] In the newly settled Hunter Valley, the isolated villages were protected by only a constable and three soldiers[420] while in the western district there were three magistrates, four constables and a few soldiers to deal with convict bushrangers and marauding Aborigines.[421] In 1825, the commandant at Bathurst complained that the bushrangers were so audacious and secure in the isolated valleys that they had crops planted and stock grazing.[422]

In December 1824, Brisbane called a meeting of magistrates to discuss the bushranger problem. Blaming the increased number of convicts, the ease of escape from Port Macquarie, lack of efficient police and absurd regulations for the capture of runaways, the magistrates recommended a mobile horse patrol

415. Brisbane to Taylor, 26 January 1822, HRA i,X,609-610; Brisbane to Wilmot-Horton, 3 November 1824, Catton Papers, Derby; Brisbane to Taylor, 29 January 1825, ibid.
416. e.g. at Wellington Valley.
417. Australian, 13 October 1825.
418. J.Atkinson, op.cit., p.141.
419. Howe to Goulburn, 17 September 1822, CSIL 4/1757, f.192; Reddall to Brisbane, 29 July 1824, CSIL 4/1779, f.63; S.G., 13 October 1825.
420. Morisset to Goulburn, 28 July 1822, CSIL Newcastle 4/1808, f.185-191.
421. S.G., 12 August 1824.
422. Fennell to Ovens, 23, 27 August 1825, Copies of Letters Received by the Governor 1822-1825, AONSW 4/1618, p.187, 212.

of colonial youths to pursue runaways and bushrangers.[423]

A mounted corps of colonial youths had been suggested in December 1822 but nothing had developed.[424] In June 1824 Brisbane requested the Colonial and War Offices to send equipment for a colonial cavalry because the infantry was too immobile to deal with the bushranger and Aboriginal problems.[425] His request met with little sympathy at the Colonial Office where it was seen as "nothing but a military job" of the governor's staff.[426] The refusal was based on Brisbane's failure to provide a costing estimate but the idea itself received no support, though the Colonial Office had recently forwarded the suggestions of Archdeacon Scott on police reform, which recommended a horse patrol.[427]

Brisbane was very bitter at the rejection of the horse patrol, believing that military operations were the one aspect of his administration in which he had personal expertise.[428] He out-manoeuvred the Colonial Office by calling magisterial and legislative council meetings in mid-1825 which supported his idea. A mounted police force was established by the legislative council and the measure received strong support from the colonial press.[429] A military unit was quickly equipped and sent to Bathurst where it was successful in countering bushranger attacks.[430]

As a result of Bigge's recommendations, D'Arcy Wentworth

423. Australian, 30 December 1824.
424. S.G., 13 December 1822, 6 January 1825.
425. Brisbane to Bathurst, 18 June 1824, HRA i,X1,283.
426. CO Minute, n.d. (1824), CO 201/153, f.105.
427. Bathurst to Brisbane, 22 December 1824, HRA i,X1,423; Scott to Wilmot-Horton, 10 September 1824, ibid., p.412.
428. Brisbane to (?), 31 July 1825, Brisbane Papers ML FM4/1626, Section 1.
429. S.G., 28 July 1825; Australian, 15 September 1825; Forbes to Wilmot-Horton, 15 May 1827, Forbes Papers ML A1819.
430. S.G., 15 September, 1 December 1825.

was replaced by a superintendent of police appointed in Britain.[431] Francis Rossi did not arrive until 1825 and a number of changes were made before then. Bigge had disapproved of police constables who were ticket of leave men or convicts. Senior constables were often former convicts or occasionally ex-soldiers. Their payment had been irregular, in rations or the services of assigned convicts rather than cash, and the job offered few inducements for men of good character.[432]

Brisbane was anxious to improve the efficiency of the police and he was prepared to offer a few pardons to stimulate their activity.[433] Payment and conditions were improved. From late 1822, the wages of Sydney constables were paid in cash and this system was extended to Parramatta, Windsor and Newcastle by 1824.[434] The cash payments did not result in increased intoxication of police as some officials had feared.[435]

The problem of suitable men was less easily remedied. The columns of the Sydney Gazette constantly listed constables dismissed for drunkenness or neglect of duty. Convicts and ticket of leave men were still appointed and some proved to be honest and efficient.[436] The authorities were interested in encouraging the colonial youths to take part in law enforcement but there was little response. Many believed that colonial youths were prejudiced against a police career because of their families' convict backgrounds though there were a few successful

431. Bathurst to Brisbane, 2 January 1825, HRA i,X1,457-458.
432. Bigge, New South Wales, p.106.
433. Brisbane to (?), 31 March 1823, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UC MSS 329.
434. Goulburn to Wemyss, 7 December 1822 CSOL 4/3507, p.46; Petition of the Windsor and Hawkesbury constables, 22 May 1824, CSIL 4/1779, f.160; Goulburn to Wemyss, 30 June 1824, CSOL 4/3511, p.575; S.G., 10 June, 9 September 1824.
435. Brisbane to Wilmot-Horton, 16 June 1825, encl., HRA i,X1,662.
436. e.g. S.G., 15 September 1825; Cunningham, op.cit., p.346.

exceptions, such as John Thorne the chief constable of Parramatta.[437] Not all police action was officially inspired. In Airds, the magistrates and local citizens formed their own honorary constables in September 1822 to counter the increasing bushranger threat.[438]

Rossi's appointment as superintendent of police no longer included the financial responsibility of the Police Fund and he was able to concentrate on the police force. The number of police districts in Sydney was increased from six to eight and additional police and watchhouses were provided. The new sheriff became responsible for the gaols. Wages for police were increased, though they were still not sufficient to attact better men.[439] There had been a small but steady increase in police expenditure between 1822 and 1824, from £3,800 to £4,300 but by the end of 1825 this had doubled to £8,876,[440] reflecting the extension of police forces beyond the Cumberland Plain to the Hunter Valley and the Counties of Argyle and Camden. In Sydney, increased night patrols and fines for drunkenness reduced misdemeanours and Rossi's diligence earned him the approval of the governor and the colonists.[441]

The other face of law enforcement was the local magistrate, who dealt with problems of convict discipline and a range of criminal and civil matters as well as arbitrating in local disputes and providing character references. Before Bigge's recommendations had arrived, Brisbane had increased the number

437. S.G., 6 January, 6 October 1825.
438. S.G., 27 March 1823.
439. New South Wales Legislative Council, Minutes of Proceedings, 12 July 1825, p.17; S.G., 8 September 1825; Rossi, Report on the Police, 7 October 1826, HRA i,XII,681.
440. Colonial Returns 1822, 1823 and 1825; Colonial Fund 1824, S.G., 3, 6, 10 October 1825.
441. S.G., 21 July, 4 August 1825; Brisbane to Bathurst, 21 November 1825, HRA i,XI,904; Mrs Brooks, Diary, 12 July 1825, NLA MS1559/4; Cunningham, op.cit., pp.39-40.

of magistrates. Macquarie had appointed twenty-two magistrates and a week after taking office Brisbane named twenty-six, drawn from the ranks of senior officials and established free settlers.[442]

In the next few months, Brisbane's efforts to increase the size but maintain the respectability of the magistracy brought him into conflict with the judges over his nomination of John Macarthur.[443] Though he did not remove the Reverend Henry Fulton, Brisbane did not appoint any other former convicts to the magistracy.[444] In March 1822, a further eight magistrates were appointed but within a few months disputes on the Parramatta bench removed four and another resigned.[445] There were only two new magistrates in 1823 [446] but a new commission of the peace was announced with the charter of justice in May 1824 which added seven magistrates, including two for the Hunter region.[447] Four magistrates were appointed in 1824 and 1825 for the Bathurst district and three for the southern districts.[448]

Brisbane's final commission of the peace in November 1825 named sixty-five magistrates.[449] Twenty-one were retired officials, settlers or merchants who were established in the colony before Brisbane's arrival; eleven were new settlers and

442. J.T.Bigge, Report of the Commissioner of Inquiry on the Judicial Establishments of New South Wales and Van Diemen's Land (1823 and facsimile edition Adelaide, 1966), pp.82-83; Macquarie to Bathurst, 30 November 1821, encl.4, HRA i,X,583-584; Commission of the Peace, 1 December 1821, HRA iv,1, 401-402.
443. Brisbane to Bathurst, 27 February 1822, with encl., HRA i,X,624-626. See Chapter 7.
444. "H.Fulton", ADB , Vol.1.
445. S.G., 1 March 1822; Commission of the Peace, 29 August 1822, HRA iv,1, 410-411. See Chapter 7.
446. S.G., 16 October, 18 December 1823.
447. Commission of the Peace, 26 May 1824, HRA iv,1,539-540.
448. S.G., 16 September 1824, 10 February, 29 September 1825; Moore, Throsby, Antill and Macleod to Brisbane, n.d. (1825) with Brisbane's minute, CSIL 4/1782, f.3.
449. S.G., 14, 17 November 1825.

two were born in the colony. The remaining thirty-one held civil or military posts and two-thirds had arrived since Brisbane became governor.

Trebling the number of magistrates would not solve police problems unless the magistrates were active in their duties. In June 1825, Rossi complained that of thirteen magistrates attached to the police bench in Sydney, nine were government officials of whom only one, William Balcombe the colonial treasurer, regularly attended. Of the remaining four, Alexander Berry and Edward Wollstonecraft were merchants who could only attend irregularly, leaving John Campbell and Thomas Macvitie to assist Rossi on a bench which required the constant attendence of at least two magistrates.[450]

Brisbane recognized that voluntary magistrates could devote only limited time to their duties and he favoured full-time stipendiary magistrates in the larger towns.[451] Archdeacon Scott had made a similar suggestion[452] and in mid-1825 Brisbane appointed Dr Donald Macleod as police magistrate at Parramatta[453] and Archibald Bell was appointed for Windsor at the end of the year.[454]

Action by both the police and the magistrates against convicts was summary, officials and settlers agreeing that this was the most effective discipline.[455] The police required no warrants to enter houses where they suspected runaway convicts were hiding or if they suspected a convict of habouring stolen

450. Rossi to Brisbane, 27 June 1825, New South Wales Legislative Council, Bills, Finance Bundle 1825-1826, Parliament House Archives, Sydney; S.G., 30 June 1825.
451. Brisbane to Bathurst, 28 January 1825, HRA i,X1,477.
452. Scott to Wilmot-Horton, 10 September 1824, ibid., p.412.
453. Brisbane to Bathurst, 29 June 1825, ibid., pp.679-680.
454. S.G., 17 November 1825.
455. Brisbane to Wilmot-Horton, 24 March 1825, HRA i,X1,553; Cunningham, op.cit., p.333.

property.[456] By 1826, there were 500 prisoners at Port Macquarie who had been sentenced by magistrates for minor offences.[457]

Bigge had been concerned about the powers of colonial magistrates and although abuses had been infrequent, the 1823 New South Wales Act required two magistrates to sentence offenders.[458] Colonial officials and settlers feared this restriction would weaken convict discipline. Distance and the scarcity of magistrates in certain areas made it difficult for two magistrates to meet regularly for the speedy punishment of recalcitrant convict servants and the convicts took advantage of this inadequacy to commit crimes.[459]

The legislative council attempted to fill this void with local regulations. In 1825, the council passed laws against harbouring runaway convicts, regulations for the new hulk prison and for the summary punishment of convicts.[460] By conferring limited powers on single magistrates, the colonial government emphasized that an increase in magistrates was not sufficient to provide adequate law enforcement for daily small offences in remote areas.[461] The British government disallowed this local legislation for single magistrates.[462]

For the British government, severity and economical management were the dual elements of a successful convict administration. Wilmot-Horton was convinced that Brisbane had not made transportation a severe punishment[463] and his

456. A.H.King, Police Organization and Administration in the Middle District of New South Wales 1825-1851, Unpublished M.A.Thesis, University of Sydney, 1956, p.170.
457. Darling to Bathurst, 31 August 1826, HRA i,X11,513; Governor's Minute No,63, 21 March 1826, CS 4/990.
458. Bigge, New South Wales, p.100; Stephen to Hay, 16 August 1825, HRA iv,1, 617-618.
459. Brisbane to Bathurst, 28 January 1825, HRA i,X1,477; Brisbane to Wilmot-Horton, 24 March 1825, ibid., p.553.
460. New South Wales Legislative Council, Acts, Nos. 3,5,9,15.
461. Brisbane to Bathurst, 24 May 1825, HRA i,X1,615-616; Bannister to Brisbane, 28 June 1825, ibid., p.677.
462. Bathurst to Darling, 11 September 1825, HRA i,X11,58-59.
463. The Times, 5 June 1824.

doubts were reinforced by the frequent suggestions of Archdeacon Scott. Scott's pressure forced Brisbane to appoint a colonial committee, chaired by John Macarthur, to inquire into the best means of superintending, employing and subsisting convicts in October 1825. Its members, Marsden, Cox, Howe, Hannibal Macarthur, Throsby, Bell, Oxley and George Forbes, included all those whom Macarthur had suggested in 1822 as a Parramatta committee to advise the governor on convict matters.[464]

Despite the constant emphasis on economy in the post-war years, there were few comments and fewer statistics for New South Wales after Bigge's reports. Assuming that an obvious failure to control convict expenses would have attracted criticism from both the Colonial Office and the Treasury, Brisbane probably kept costs at an acceptable level. He managed to reduce and stabilize the total expenses of the settlement and a certain proportion would have been due to economies in convict affairs.[465]

The average cost for each convict had fallen significantly during the latter half of Macquarie's government, despite the rise in total costs. In 1819-1821, the average cost per head was calculated at £25.[466] By 1823, Brisbane calculated that this had fallen from £27 to £22.[467] In other estimates, he considered that an idle convict cost the government £20 per year but if he produced his own food this fell to £14.[468] By 1825, the

464. Brisbane to Wilmot-Horton, 16 June 1825, HRA i,X1,648; S.G., 28 July, 6, 13 October 1825; J.Macarthur to Brisbane, 1 September 1825, Copies of Letters Received by the Governor 1822-1825, AONSW 4/1618, p.198; S.M.Onslow, Some Early Records of the Macarthurs of Camden (1914 and Adelaide, 1973), pp.357-358.
465. See Chapter 6.
466. Shaw, op.cit., p.99.
467. Brisbane to Craufurd, 21 June 1823, Brisbane Papers PRO PMG1/1.
468. Brisbane to (?), 31 March 1823, Brisbane Papers ML FM4/1626, Section 1.

chief engineer estimated that the rations for convicts supported by the government were worth £12-8-2 annually, with clothing another £ 2.[469] The Colonial Office accepted in 1825 that the average annual cost per convict was £16.[470]

These figures indicate that costs per head had fallen significantly during Brisbane's administration and objections to the expense of the convict system in this period were invalid.[471] These reductions were achieved through Brisbane's emphasis on assignment and self-sufficiency and were aided by falling food prices.[472]

The effectiveness of transportation as a deterrent and punishment was less clear. Though there were many comments on the leniency of Brisbane's administration, the governor believed that transportation was no longer an "amusement".[473] Chief Justice Forbes agreed. For most convicts, New South Wales was "a place of labor, privation and suffering...a life without hope".[474] The convict success stories were only hundreds out of thousands, though they gave transportation a hopeful element that refused to be disguised by the horror and degradation of Port Macquarie or Norfolk Island. Brisbane himself appeared untouched by the convicts' situations and his gestures of mercy were more concerned with his own salvation than with compassion for the convicts.[475]

Brisbane believed that his convict policies were consistent with the aims of the British government. Self-supporting

469. Brisbane to Wilmot-Horton, 16 June 1825, encl., HRA i,X1,660.
470. Bathurst to Brisbane, 1 January 1825, ibid., p.442.
471. e.g. B.Fitzpatrick, British Imperialism and Australia 1783-1833 (1939 and Sydney, 1971), p.301.
472. See Chapter 6.
473. Brisbane to Taylor, 29 January 1825, Catton Papers, Derby.
474. Forbes to Wilmot-Horton, 6 February 1825, ibid.
475. Brisbane, Diary, (September 1823?), Brisbane Papers ML UCMSS 419, Part 1.

establishments and his assignment policies had reduced colonial expenses. Removal of irregularities in the distribution of indulgences had increased the efficiency of punishments without resorting to greater physical severity. However, Brisbane did not implement Bigge's reports comprehensively. Except for those points which he had anticipated and adapted in the early months of his government, Brisbane was reluctant to introduce Bigge's more detailed recommendations. In particular, Brisbane explicitly rejected Bigge's major conclusion which favoured isolated secondary penal establishments.

Brisbane's integration of convict and land policies, through bonded convicts and clearing gangs, and the hire of convict mechanics effectively distributed convict labour. The complaints of the previous decade were removed but management of the more refractory prisoners and of the women convicts was not resolved. In overcoming old problems, new difficulties arose. Convict transports failed to keep pace with the colony's labour demands, both natural and artificially induced by Brisbane's assignment policies, while the dispersion of so many convicts without adequate police facilities created problems for law and order.

Chapter 4 - Free Colonial Society.

In 1821, there were almost 30,000 white men, women and children in New South Wales. Most of the adults were convicts; forty-one per cent of the population was under sentence and five per cent held tickets of leave. The adult free colonists were divided into three groups. The largest, eighteen per cent, had once been convicts. Adults, born in the colony, formed about six per cent and the smallest group, settlers and officials who had arrived free, were only five per cent of the population. The composition of the population in 1821 and 1825 is shown in Table 4. In addition there were 1,500 military personnel and their families on temporary service in the colony. Beyond the white settlements were an unknown number of Aboriginal natives.[1]

During the four years of Brisbane's government, the relative ~~proportions~~ positions of the three non-convict groups did not alter but the increasing number of new free settlers foreshadowed major changes in colonial society. In 1821 most free colonists lived in Sydney or Parramatta and this proportion declined only slightly during the next four years in striking contrast to the distribution of convicts away from the settled districts in the same period.[2] The distribution of the free population is shown in Table 5.

1. J.T.Bigge, Report of the Commissioner of Inquiry on the State of Agriculture and Trade in the Colony of New South Wales (1823 and facsimile edition Adelaide, 1971), p.78; Contemporary estimates of the Aboriginal population were as high as 3,000,000 but the number was probably about 300,000. J.D.Bollen, "English Missionary Societies and the Australian Aborigine", Journal of Religious History, 9 (1977), p.268, fn.24.
2. See Chapter 3.

Table 4 - Colonial Population, 1821 and 1825.[3]

	1821		1825	
Group	Number	%	Number	%
Convicts and Tickets of Leave (Male and Female)	13,814	46.4	16,433	45.4
Free by Servitude, Absolute and Conditional Pardons (Male and Female)	5,312	17.8	7,226	19.9
Born in the Colony (Adults - Male and Female)	1,884	6.3	3,680	10.2
Arrived Free (Male and Female)	1,489	5.0	3,148	8.7
Children[4] (Male and Female)	7,224	24.3	4,724	13.0
Unknown[5]	60	0.2	1,008	2.8
Total Population[6]	29,783	100.0	36,219	100.0

3. 1821 Muster, HRA i,X,575; Colonial Returns 1825.
4. The 1821 Muster does not distinguish between children born in the colony and immigrant children. In 1825, there were 4,499 children born in the colony and 225 immigrant children. Ibid.
5. The 1821 Muster had 240 persons on ships which would give a population total of 29,963. The 1825 return had 1,208 persons unknown which would make a total of 36,419.
6. The statistician T.A.Coghlan regarded the population statistics for 1817-1824 as too eratic to be a reliable guide to annual population increases. T.A.Coghlan, General Report on the Eleventh Census of New South Wales (Sydney, 1894), p.70. The population figures for 1821-1825 are:-
1821 - 29,783 (1821 Muster, HRA i,X,575)
1822 - 24,188 (1822 Returns)
1823 - 28,333 (1823 Returns)
1824 - 33,595 (Extracts, 1824 Muster, CSIL 4/1775, f.140)
1825 - 36,219 (1825 Returns)

Table 5 - Distribution of the Free Adult Population[7] (Male and Female), 1821 and 1825.

	Former Convicts		Colonial Born		Arrived Free	
Location	1821	1825	1821	1825	1821	1825
Sydney	2,153	2,387	1,050	1,003	742	1,559
Parramatta	913	834	178	645	214	307
	3,066	3,221	1,228	1,648	956	1,866
West Cumberland						
Castlereagh and Evan		248		169		77
Richmond		364		130		84
Wilberforce		482		229		91
Melville		86		47		26
Bringelly		132		33		57
Windsor[8]	1,283	529	462	317	300	109
		1,841		925		444
South Cumberland						
Airds		268		133		50
Appin		136		66		60
Minto		105		91		61
Liverpool[8]	725	189	163	79	199	89
		698		369		260
Beyond Cumberland						
Bathurst	29	135	13	17	6	83
Cawdor		73		13		30
Argyle		123		42		51
Newcastle	29	239	17	80	22	167
Port Macquarie		12	1	28	6	35
Moreton Bay		1				
	58	583	31	180	34	366
Group Totals	5,312	7,226	1,884	3,680	1,489	3,148

7. 1821 Muster, HRA i,X,575; Colonial Returns 1825.
8. Includes surrounding area in 1821 Muster.

Most former convicts had served their full sentences. A smaller number held absolute or conditional pardons. Their fight for legal rights brought the term "emancipist" into general use in the 1820s to describe all former convicts.[9] Their fortunes varied greatly. Most chose to live in Sydney or Parramatta and worked as labourers, tradesmen, publicans and retailers. There were ample opportunities in the young colony for an astute businessman. Military officers used former convicts and convicts as agents for their trade speculations and this was often the start of a successful career as a merchant or manufacturer.[10] Those with some education were employed as clerks, teachers and minor officials. Others were able to follow their professions as doctor, lawyer or architect.

Small land grants had been given to many former convicts and, despite inadequate capital and inexperience, over one-third of these grantees farmed their land in 1821.[11] Most of these farms were along the banks of the Hawkesbury-Nepean River but some had grants in the newer district of Airds. Purchased or rented land, the rent generally paid in wheat, enabled some to expand their farms.[12] The small emancipist farmers were often referred to as "dungaree settlers" and were criticized by the larger settlers for their negligence. They occupied the most fertile land in the colony but rarely made

9. See Chapter 8 for a discussion of the term "emancipist".
10. See Table 5; D.R.Hainsworth, The Sydney Traders. Simeon Lord and His Contemporaries 1788-1821 (Melbourne, 1972), p.2; W.C.Wentworth, Statistical, Historical and Political Description of the Colony of New South Wales (1819 and facsimile edition Adelaide, 1978), p.347.
11. B.H.Fletcher, Landed Enterprise and Penal Society (Sydney, 1976), p.223.
12. See Table 5; 1821 Land and Stock Muster, AONSW 4/1229; Bigge, Agriculture and Trade, p.11; Berry to Wyatt, 26 November 1825, Berry Papers ML UCMSS 315/5.

an effort to improve it.[13]

There were some outstanding successes among the former convicts who turned to mercantile activities, particularly the retailers in Sydney.[14] In all, by 1821, probably half of the convict settlers had become small landholders or tradesmen, indicating the moderate successes of this group.[15]

Many of the early free settlers had been officers or soldiers with the military and marine guards and they were joined by civil officials who chose to remain in the colony. Trading opportunities attracted some merchants, particularly from India, but other free settlers were few. Free immigrant farmers or adventurers were a rarity before 1800 and remained small until the end of the second decade of the nineteenth century.[16]

The majority of free settlers lived in Sydney or Parramatta. One-third of the free male population owned land in 1821, mainly through grants from the colonial government but the largest landowners had also purchased land extensively.[17] Bigge observed that most free settlers were not prosperous.

> There are very few persons of the free classes who, however respectable in character, are not still suffering from the effect of early or later embarrassment. Their habitations possess little of

13. J.Atkinson, An Account of the State of Agriculture and Grazing in New South Wales (1826 and facsimile edition Sydney, 1975), p.29; A.Harris, Settlers and Convicts or Recollections of Sixteen Years' Labour in the Australian Backwoods by an Emigrant Mechanic (1847 and Melbourne, 1953), pp.4-6
14. Remarks of Mr Bigge upon the Charges of Edward Eagar, 4 February 1823, J.Ritchie, The Evidence to the Bigge Reports (2 vols., Melbourne, 1971), Vol.2. Written Evidence, p.265.
15. L.L.Robson, The Convict Settlers of Australia (Melbourne, 1976), pp.125-126
16. R.B.Madgwick, Immigration into Eastern Australia 1788-1851 (1937 and Sydney, 1969), pp.33-34.
17. See Table 5; Fletcher, op.cit., p.217. In 1821 there were 285 free landowners out of 846 free men. D.Wentworth had 3,997 acres by grant and 25,520 acres by purchase; Sir J.Jamison, 1,960 acres grant, 10,436 acres purchased; E.Riley, 1,500 acres granted and 2,500 acres purchased. 1821 Land and Stock Muster, AONSW 4/1229.

> the comfort or convenience that distinguish the houses of the middle classes in England; and it is chiefly amongst those who have been connected with the superintendence of the labour of convicts and the sale of spirits that the traces of wealth are yet to be distinguished. 18

Colonial relationships were complex. Undoubtedly, the middle and lower elements among the free settlers and the former convicts enjoyed easier relations than the more prominent settlers of either group. The social acceptability of former convicts was partially determined by their offences. Some colonists distinguished between political crimes and offences against property. Former convicts themselves differentiated those who had been punished for offences in the colony from those who had only served their original sentence.[19]

Social relationships among the free settlers were based on traditional values of wealth and respectability but since few had come from the higher ranks of British society, these values assumed colonial overtones. There was less distinction between landed and mercantile wealth as most free settlers had used profits from trade to finance their grazing or farming.[20] The smallness of the community accentuated divisions, which were perpetuated by gossip and constant feuds.[21] Notions of respectability, virtue and honour demanded no personal association with those who had been convicts. The degradation of free settlers who had

18. Bigge, Agriculture and Trade, p.82.
19. Evidence of A.Bell, quoted in J.Ritchie, The Evidence to the Bigge Reports (2 vols., Melbourne, 1971), Vol.1. Oral Evidence, p.89; P.Cunningham, Two Years in New South Wales (1827 and Sydney, 1966), pp.250-252.
20. But see Wentworth, op.cit., p.347.
21. Ibid., p.28.

become familiar with the convicts cast a slur on the reputation of all free settlers.[22]

Rejecting the behaviour of many of their contemporaries, the families of John Macarthur, Archibald Bell, Samuel Marsden, Richard Brooks and the Blaxland brothers were outstanding examples of personal morality. Free settlers who arrived without wives often associated with convict women. Such liaisons shadowed the colonial careers of William Lawson, John Piper, Colonel Johnston and D'Arcy Wentworth. Though they enjoyed material successes, their families were never fully accepted by the other free settlers.

Former convicts were not received into the "superior society" of the governor, officials or the prominent free settlers.[23] Macquarie disapproved of this discrimination and introduced a more liberal policy by rewarding a convict's reformation with admission into society.[24] He considered that former convicts were the most industrious settlers and pointed to their achievements, in the face of exceptional difficulties, in agriculture, maritime activities and manufacturing. By comparison, the "gentlemen settlers" merely used their land for grazing cattle or employed their capital in trading ventures.[25]

Macquarie's patronage of former convicts was not limited to social occasions and their appointments to government

22. K.Macnab and R.Ward, "The Nature and Nurture of the First Generation of Native-Born Australians", Historical Studies, 10 (1962), p.290; R.M.Crawford, Australia (London, 1958), pp.48-49; Bowman to Buchanan, - September 1820, Buchanan Papers, Macarthur Collection ML A4266.
23. A.C.V.Melbourne, Early Constitutional Development in Australia (1934 and St Lucia, 1972), p.60.
24. Macquarie to Castlereagh, 30 April 1810, HRA i,V11,275-276; Macquarie to Liverpool, 17 November 1812, ibid., pp.616-617.
25. Macquarie to Bathurst, 31 March 1817, HRA i,1X,338; Macquarie to Bigge, 6 November 1819, HRA i,X,222-224.

positions and the magisterial bench provoked opposition from officials, the military and free settlers. Macquarie accused them of "illiberal prejudice"[26] and W.C.Wentworth criticized those who wished to establish hereditary distinctions between free and freed to ensure the dominance of their minority.[27] The opponents of Macquarie's emancipist policy were the colonial patriarchs or the "pure merinos" who wanted an "exclusive" society.[28]

Most free settlers were convinced that few emancipists were reformed.[29] John Oxley informed Bigge that most convict settlers were "addicted to drunkenness and prefer a licentious and unsettled life",[30] a view supported by Gregory Blaxland.[31] Even those who observed that former convicts were among the richest men in the colony attributed their success less to moral reformation than a sense of personal interest and acquisitiveness.[32] To John Macarthur their successes were evidence of fraud and vice.[33] Macarthur, Marsden and Bowman believed that their corruption had become part of Macquarie's government.[34]

Marsden refused to associate with such immoral characters on public occasions but others, such as Sir John Jamison and Archibald Bell, were prepared to meet former convicts at public

26. Macquarie to Liverpool, 17 November 1812, HRA i,V11,617.
27. Wentworth, op.cit., pp.346-351.
28. See Chapter 8 for a discussion of these terms.
29. Evidence of Cowper, Ritchie, Bigge - Oral Evidence, p.151.
30. A.Hewison, The Macquarie Decade (Melbourne, 1972), p.94.
31. Evidence of Blaxland, Ritchie, Bigge - Oral Evidence, p.88.
32. Cunningham, op.cit., pp.252-253; E. de Blosseville, Histoire des Colonies Penales de l'Angleterre dans l'Australie (Paris, 1831), p.430; J.F.O'Connell, A Residence of Eleven Years in New Holland and the Caroline Islands (Boston, 1836), pp.35-39.
33. Hewison, op.cit., p.85.
34. S.M.Onslow, Some Early Records of the Macarthurs of Camden (1914 and Adelaide, 1973), p.338; Marsden to Bigge, 11 February 1822, ML BT Box 27, pp.6519-6521; Marsden to Pratt, 16 February 1822, ML BT Box 52, p.1094; Bowman to Buchanan, - September 1820, Buchanan Papers Vol.1, Macarthur Collection ML A4266.

functions, at the governor's table or to conduct business. However, they refused to follow Macquarie's example and entertain them privately in their homes.[35] Bowman considered that many former convicts were embarrassed by the governor's efforts to introduce them to society as most were men of humble origins.[36] Macquarie himself acknowledged that his successes were limited to a few emancipists who held official positions.[37] Bigge wondered if former convicts might have been accepted more readily if Macquarie had not forced the issue but Macarthur and Bell believed that they would still have been rejected.[38]

Opinions on the divisions between free settlers and former convicts varied. Judge J.H.Bent did not believe that the differences between the two groups were great.[39] James Dixon, a visiting sea captain, stated that hardly any distinctions were made over the admission of former convicts into colonial society yet emancipists were generally unacceptable dinner guests and he warned newcomers to be cautious when making acquaintances.[40]

Edward Eagar, spokesman for the former convicts, asserted that prejudices had declined during Macquarie's government and that, with the exception of Marsden, most

35. J.T.Bigge, Report of the Commissioner of Inquiry into the State of the Colony of New South Wales (1822 and facsimile edition Adelaide, 1966), pp.82-83; Jamison to Goulburn, 16 July 1819, CO 201/95, f.577; Hewison, op.cit., p.95.
36. Bowman to Buchanan, - September 1820, Buchanan Papers, Macarthur Collection ML A4266; Bigge, New South Wales, p.82.
37. Macquarie to Duke of York, 25 July 1817, HRA i,1X,443.
38. Hewison, op.cit., pp.95-96.
39. Evidence of Bent to the Select Committee of Gaols, 1819 in C.M.H.Clark, Select Documents in Australian History 1788-1850 (Sydney, 1969), p.411.
40. J.Dixon, Narrative of a Voyage to New South Wales and Van Diemen's Land in the Ship "Skelton" during the Year 1820 (Edinburgh, 1822), pp.85-88.

settlers associated with emancipists in matters of colonial interest and even accepted their hospitality. Bigge's preference for the free settlers had encouraged a small group, dominated by the Macarthur family and a number of retired military and civil officials, to revert to their old attitudes that former convicts should remain in a subservient position.[41]

A petition in 1821, signed by 1,400 former convicts emphasized their contribution to colonial development. Not only did they and their families form the largest part of the population but their assets, invested in land, buildings and mercantile affairs, were more than twice those of the emigrant settlers. An attack on their rights would result in chaos.[42] The signatures, from successful traders and manufacturers to smaller farmers, indicated their sense of insecurity. Although Bigge thought the judicial decisions that had provoked the petition were unnecessary, his comments that the former convicts had magnified their fears were contested by Eagar, who pointed to the public antagonism of the judges toward the emancipists.[43]

Nevertheless, Bigge was pessimistic about the legacy of feelings generated during Macquarie's government.

> These prejudices are now, I fear, too deeply fixed to be removed; and the ambitious feelings of the higher classes of emancipated convicts have been too long encouraged and cherished, to expect from them either submission or conciliation. Governor Macquarie has thus left to his successor the difficult, and I may even add, the hopeless task of bringing back to

41. Eagar to Bathurst, 6 November 1822 in Ritchie, Bigge - Written Evidence, pp.200-259.
42. Petition of the Emancipated Colonists of New South Wales, encl. in Macquarie to Bathurst, 22 October 1821, HRA i,X,549-556.
43. Melbourne, op.cit., p.79; Eagar to Bathurst, 6 November 1822 in Ritchie, Bigge - Written Evidence, pp.246-247,229-230.

> their proper and just standard the pretensions of two large classes of the inhabitants...,without giving to the one party, a supposed ground of triumph,. and without inflicting upon the other, too large a measure of vexation and disgrace. [44]

The new governor believed that society should be carefully structured[45] and he intended to keep the convict gentry in their place.[46] Brisbane was offended by Macquarie's friendship with a number of emancipists and he was particularly shocked to learn that Mrs Macquarie's companions had been drawn from brothels. She was "ten times worse" than her husband and Brisbane blamed her for the familiar behaviour of such people at government house.[47] Brisbane was most selective in his guests[48] and no former convict was received at a social function held by the governor.[49]

Brisbane accepted that encouragement of former convicts had led to corruption and they were gradually removed from senior positions.[50] In 1823, Bathurst approved the occasional recognition of former convicts who had a proven record of respectability and achievement.[51] Brisbane did not make any new appointments but neither did he publicly endorse the exclusive attitudes of Macquarie's opponents, especially as he became aware that they were the least troublesome colonists.[52]

44. Bigge, New South Wales, pp.154-155.
45. Brisbane to Craufurd, 18 May 1822, Brisbane Papers PRO PMG1/1.
46. J.Macarthur jr to J.Macarthur, 1 June 1821, Macarthur Papers ML A2911.
47. Brisbane to Craufurd, - July 1822 and fragment, - July 1822, Brisbane Papers PRO PMG1/1; Dr J.Arnold, Journal, 13 July 1815, ML C720; J.Ritchie, Punishment and Profit (Melbourne, 1970), p.123.
48. J.Mitchell, Journal of a Voyage to New South Wales...7 April 1822 - 11 May 1823, University of Edinburgh Library DC7.123, pp.37-38; Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.38.
49. Cunningham, op.cit., p.246. A possible exception was Daniel Cooper, a member of the delegation who presented the farewell address to Brisbane. The delegates were invited to dine with the governor. S.G., 27 October, 3 November 1825. See Chapter 8.
50. Brisbane to Craufurd, 9 March 1822, Brisbane Papers PRO PMG1/1. See Chapters 2 and 3.
51. Bathurst to Brisbane, 29 July 1823, HRA i,X1,91.
52. Brisbane to Craufurd, 29 January 1823, Brisbane Papers PRO PMG1/1; Brisbane to Bruce, 18 October 1823, Brisbane Papers ML MSS 329.

For most of Brisbane's administration, the former convicts attracted little attention.[53] In view of the deep emotions aroused in 1820 and 1821, the absence of noticeable social tensions was striking. The free settlers continued to discriminate. Former convicts were still unacceptable dinner guests and a visiting deputation from the London Missionary Society endorsed this segregation. Though it was harsh on the reformed convict, discrimination was necessary to preserve the moral tone of society.[54] The Agricultural Society, which was formed in 1822 with Brisbane's support, would not accept former convicts as members while Samuel Terry's election to the board of directors of the Bank of New South Wales was rejected because he had been a convict.[55]

The emancipists' prominence was largely a result of the economic influence of a small number of men such as Samuel Terry, Simeon Lord, William Redfern, William Hutchinson and James Underwood. Unlike the former convicts in Van Diemen's Land, they had been able to seize the opportunities for trade in the young colony and develop large personal fortunes.[56] They were established before Macquarie's arrival and, although his support reinforced their success, they did not depend on the governor for their achievements. During Macquarie's government, several diversified from trade to manufacturing.[57]

53. Oxley to King, 31 January 1823, King Papers ML A1976. See Chapter 8.
54. J.Montgomery, Journal of Voyages and Travels by the Reverend Daniel Tyerman and George Bennet Esq. Deputed from the London Missionary Society to Visit their Various Stations in the South Seas, China, India, etc. Between the Years 1821 and 1829 (3 vols., Boston, 1832), Vol.2., pp.279-280; Marsden to Butterworth, 29 January 1824, ML BT Box 53, p.1380.
55. President of Agricultural Society to Brisbane, - July 1822, Miscellaneous Loose Papers 1804-1844, AONSW 5/3822.6; Brisbane to (?), 26 July 1823, Brisbane Papers ML FM4/1626, Section 1; G.M.Dow, Samuel Terry. The Botany Bay Rothschild (Sydney, 1974), pp.154-156.
56. Robson, op.cit., p.115.
57. Hainsworth, op.cit., p.97.

The conditions which provided these opportunities disappeared as the colony expanded. Only two former convicts, Solomon Levey and Robert Cooper, emerged from the Macquarie period as new entrepreneurs. Although the affairs of the successful emancipists continued to prosper quietly, there were no emancipists with comparable success during the Brisbane period. In 1819, the Windsor magistrates had predicted this decline. The colonial born sons of the earlier emancipists would inherit their property while there were fewer opportunities for newly arrived convicts to achieve extraordinary success.[58]

The dominance of former convicts in mercantile affairs was eroded by a number of new free merchants with established business connections in Britain.[59] The newcomers seized the opportunities in the expanding colony. Although the emancipists had been prominent in the coastal trade to Newcastle in the early years, it was free merchants such as Bingle, Powditch and Boucher who developed services to the newly opened Hunter region.[60] Colonial shipping had been a major investment for former convicts for two decades but by 1825 only three emancipists owned seven ships of the thirty-nine belonging to the Port of Sydney.[61] The emancipist Simeon

58. Cox, Mileham and Brabyn to Jamison, 9 February 1819, ML BT Box 18, pp.2447-2448.
59. e.g. T.H.James, F.Mitchell, M.Hindson, D.Maziere. See below.
60. J.Cumpston, Shipping Arrivals and Departures, Sydney 1788-1825 (Canberra, 1964), p.140; Weekly Commercial Express, 30 May 1825; S.G., 28 July 1825. D.R.Hainsworth, "The New South Wales Shipping Interest 1800-1821: A Study in Colonial Entrepreneurship", Australian Economic History Review, 8 (1968), p.25.
61. Hainsworth, Sydney Traders, p.120; Weekly Commercial Express, 16 May 1825. Joseph Underwood was actually a free man but he was generally regarded as belonging to the emancipists with his brother, James, who was an emancipist. "J.Underwood", ADB, Vol.2.

Lord was active on the northern timber grounds yet his name was not included with the petition of the free Sydney colonists to encourage timber exports.[62]

Parallel to the increased competition from the free merchants was instability and rivalry among the emancipist merchants. Partnerships between free and freed were rare and the most prominent, T.W.M.Winder's partnership with emancipists such as Terry, Hutchinson and Cooper, was dissolved in 1823.[63] Ownership of the largest emancipist concern, the Waterloo Company, changed three times between 1822 and 1825.[64] Men such as Cooper, Hutchinson, Underwood and Forbes had financial interests in a number of activities and disputes were common as partnerships broke and reformed. Some quarrels were financial, such as the conflict between Underwood, Cooper and Forbes over a distillery,[65] but the disintegration of the firm of Eagar, Forbes, Hosking, Redfern and Hutchinson had deeper significance. Its affairs had been impeded by the absence of two principals, Eagar and Redfern, in England with the emancipist petition. E.S.Hall had been appointed guardian of Eagar's children and F.E.Forbes had assumed management of the company. In April 1824, Solomon Levey called a meeting to save Eagar's family from imminent financial distress and Hall and Forbes were conspicuous by their absence.[66]

This division merged with another lengthy dispute involving emancipist jeweller, Jacob Josephson, who quarrelled with Hall

62. Brisbane to Bathurst, 27 January 1824, with encl., HRA i,X1,204-206; Campbell to Goulburn, 15 March 1823, CSIL Newcastle 4/1809; Memorial of Lord and Shortt, 14 July 1823, ibid.; Hainsworth, "Shipping Interest", p.25.
63. "T.Winder", ADB, Vol.2. E.S.Hall, another free settler, also ended his partnership with a number of emancipists in this period. S.G., 6 May 1824.
64. S.J.Butlin, Foundations of the Australian Monetary System 1788-1851 (1953 and Sydney, 1968), p.193; S.G., 24 June 1824.
65. S.G., 10 June 1824; "J.Underwood", ADB, Vol.2.
66. S.G., 15, 22, 29 April 1824; Weekly Commercial Express, 20 June 1825.

and Forbes and who was supported by Levey. Josephson's affairs became the centre of intrigues and robberies, including the colony's largest burglary of £13,000. Accusations that Josephson had arranged the robberies and concealed the property in the homes of innocent friends were met with cries of persecution.[67]

The seriousness, or indeed the relevance, of these disputes is difficult to assess because of fragmentary evidence but their vitriolic exposure suggests that they were probably the tip of more complex relations among the emancipists during the Brisbane period.

The free settlers had hoped that a new governor, unsympathetic to the former convicts, would encourage the social and political aspirations of the respectable free settlers.[68] In colonial society, the vice-regal family was traditionally the focus for social activities, determining standards of behaviour and providing entertainments.[69] The Macquarie family had been fond of entertaining and had regularly held dinner parties and large public functions.[70] Regardless of the debate about the inclusion of former convicts at these festivities, few settlers would have forgone the opportunity to flatter those in authority or to request favours.

Brisbane was horrified by the behaviour of the free settlers, whom he regarded as little better than "free booters".[71]

67. S.G., 14 August 1823, 1 January, 15, 22 April, 2, 23 September, 2, 9 December 1824, 7, 21, 24 November 1825.
68. Bowman to Buchanan, - September 1820, Buchanan Papers Vol.1, Macarthur Collection ML A4266.
69. J.W.Cell, British Colonial Administration in the Mid-Nineteenth Century (New Haven, 1970), p.53.
70. Macquarie to Bathurst, 24 August 1820, HRA i,X,336.
71. Brisbane to (Hepburn?), fragment (7 January 1824?), Brisbane Papers ML FM4/1626, Section 1.

> I never was in a Country before in which I could not get on with the People, but here it is impossible. There is so much vile intrigue, cabal and malevolence so that scarcely any three families visit or speak well of each other. 72

Colonial antagonisms destroyed Brisbane's pleasure at social gatherings[73] and he deliberately limited vice-regal functions.

> We mingle so little...that we know but little of [society]. We have generally a Dinner once a week of about 16 people, who retire by 10 o'clock but we have never even turned on a ball or even cards as it is necessary not to be too intimate here and by inviting some to a Ball and not others would give mutual offence. 74

Lady Brisbane was often unable to act as hostess. "An unassuming, plain woman" in her mid-thirties, she preferred a quiet life with her young family.[75] Her health was not strong. Months of sea-sickness were followed by a hot Australian summer and she miscarried shortly after her arrival.[76] She was "greatly indisposed" during her next pregnancy.[77] Their second daughter, Eleanor Australia, was born in April 1823 and Lady Brisbane made few public appearances afterwards. A son and heir, Thomas Australius, was born in August 1824.[78] In late 1825 Lady Brisbane was again pregnant and with news of her father's death, she went into mourning and declined any social engagements.[79]

On those occasions at which Lady Brisbane appeared, she was

72. Brisbane to Craufurd, 13 February 1823, Brisbane Papers PRO PMG1/1.
73. Brisbane to (?), 13 December 1822, Brisbane Papers ML FM4/1626, Section 1; Brisbane to (?), 31 March 1823, ibid.; Brisbane to Bruce, 18 October 1823, Brisbane Papers ML UCMSS 329.
74. Brisbane to Craufurd, 21 June 1823, Brisbane Papers PRO PMG1/1.
75. J.Macarthur jr to E.Macarthur, 30 May 1821, Macarthur Papers ML A2911.
76. Brisbane to Craufurd, 14 February, 9 March, 18 May 1822, Brisbane Papers PRO PMG1/1.
77. S.G., 29 November 1822; R.Crawford to H.Crawford, 2 February 1823, Brisbane Papers GA Ardgowan 295.
78. S.G., 10 April 1823, 26 August 1824; Makdougall to Blaxland, n.d., Blaxland Papers ML A1322.
79. Mrs Brooks, Diary, 16 September 1825, NLA MS1559/4; S.G., 3 October 1825; Makdougall to Blaxland, - December 1829, Blaxland Papers ML A1322. A son was born during their voyage back to England but survived only a few weeks. (W.Tasker, ed.), Reminiscences of General Sir Thomas Makdougall Brisbane (Edinburgh, 1860), p.39.

generally "very reserved and seldom spoke", though her youngest sister and companion, Elizabeth Makdougall, was more lively.[80] Brisbane declared that the colony was no fit place for a lady[81] and for Lady Brisbane, gentle, well-born and well-educated,[82] there were few respectable ladies for her and her sister to meet. The range of colonial acquaintances was limited to Mrs John Macarthur, who was very fond of Lady Brisbane and Miss Makdougall,[83] the Blaxland ladies at Newington, Mrs Hannibal Macarthur and the wives and daughters of clerical families such as the Hassalls and the Reddalls.[84]

Those who did attend the governor's dinner parties reported favourably on the refinement of the evening's entertainment. Despite the unfashionably early hour of six o'clock, the dinner was impressive, served in the French style, prepared by the governor's personal French chef and accompanied with French wines.[85]

> Their table is handsomely set out and served in a manner superior to anything we have yet seen in the colony. Lady Brisbane has a good Piano, on which she occasionally plays, and accompanies the instrument with her voice. Miss Makdougall plays the Harp and Mr Rumker the Piano in turn. 86

After-dinner conversation often turned to military anecdotes, especially of Brisbane's experiences in North America.[87] Occasionally, the governor danced a Scotch reel with his

80. Mitchell, Journal, p.76.
81. M.Brisbane to T.Brisbane, 15 May 1824, postscript, Brisbane Papers ML UCMSS 419, Part 1.
82. E.Macarthur to E.Kingdon, 28 June 1825, in Onslow, op.cit., p.454.
83. Ibid.
84. Makdougall to Blaxland, n.d., Blaxland Papers ML A1322; Makdougall to Walker, n.d.(1824?), ibid.; C.Macarthur to Bathurst, 27 September 1825, CO 201/167, f.376; Makdougall to Hassall, 15 November 1825, Hassall Papers ML A1677/1; Minutes of a conversation between Brisbane and Jamison, 20 July 1822, CSIL 4/1761, f.78; G.Forbes (ed.), Sydney Society in Crown Colony Days (Being the Personal Reminiscences of the Late Lady Forbes), typescript, n.d., ML Q991/F, p.18.
85. Mitchell, Journal, pp.76-77; R.Crawford to H.Crawford, 17 May 1821, Brisbane Papers GA Ardgowan 297.
86. E.Macarthur to E.Kingdon, 4 September 1822, in Onslow, op.cit., p.374.
87. Mitchell, Journal, pp.76-77.

guests while his sister-in-law played the piano.[88]

Some guests, such as the Presbyterian minister the Reverend J.D.Lang, found the governor's French dinner parties a subject for caricature.

> Who'er has dined at the vice regal dome
> Can tell, I ween, a very triffling story;
> Car il a vu chevalier l'Astronome,
> Son Excellence, I mean, in all his glory.
> C'est un savant - bien savant - Gastronome.
> With the French name of every dish he'll bore ye.
> "Gigot de mouton; c'est un olio.
> Sir a Veal cutlet's just a fraise de veau." [89]

The governor's prudent selection of guests was a relief to those who had disapproved of emancipists at Macquarie's entertainments.[90] Brisbane preferred the company of naval and military officers but his guests included colonial officials, prominent free settlers and their families, such as the Macarthurs and the Kings, magistrates and clergy. Visitors to the colony, whether naval surgeons, missionaries or foreign expeditions, were offered vice-regal hospitality.[91] Some new settlers were invited to dine but most met the governor at a day-time levee when he was in Sydney.[92]

With the arrival of new officials in 1824 and 1825, Brisbane increased his social activities with his officials. He hoped that

88. Forbes, op.cit., p.17.
89. "A Peep at Government House, Parramatta in 1823", J.D.Lang, Poems Sacred and Secular (Sydney, 1873), pp.156-157.
90. Mitchell, Journal, pp.37-38; Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.38; (Jamison) to Brisbane, - July 1822, Miscellaneou Loose Papers 1802-1844, AONSW 5/3822.6.
91. J.Macarthur to J.Macarthur jr, 29 January 1823, Macarthur Papers ML A2962; James Macarthur to J.Macarthur, 14 February 1824, ibid.; C.Macarthur to King, 20 November 1822, King Papers ML A1976; Brisbane to D.Wentworth, 20 July 1824, Wentworth Papers ML A754; Rev, Mansfield, Diary, 19 June 1823, ML BT Box 52, p.1312; Montgomery, op.cit., p.267; O.& W.L.Havard, "Some Early French Visitors to the Blue Mountains and Bathurst, Part 11", JRAHS, 24 (1938), p.262.
92. Brisbane dined with the newly arrived merchant J.Robson. Wilmot-Horton to Brisbane, 5 May 1825, with encl., HRA i,X1,571; Australian, 15 December 1825.

> our united harmony and cordiality will extend itself to the Society at large so as to give a better tone to Society which it has long stood much in need of. 93

Yet, despite the quality of vice-regal entertainments, the colonists felt deprived and Mrs Darling's balls and other festivities were a welcomed contrast to the retirement of her predecessor.[94]

During the early 1820s, there were important changes in the composition of the free settlers. In 1821, there were only 1,489 adults who had arrived free in New South Wales. Within the next four years, the number of voluntary migrants doubled, reaching 3,148. Whilst this growth has been noted as the start of a massive wave of immigration during the later 1820s and 1830s, there has been little detailed analysis of these new settlers or of their impact on colonial society.[95]

The early governors had requested the British government to allow farmers to go to New South Wales but although the British government agreed free migration was not encouraged. By 1810, fewer than 400 people had arrived as voluntary settlers. Most had neither farming experience, skills nor capital, though there were exceptions such as the Blaxland brothers and Dr Robert Townson.[96]

Neither the British nor colonial governments wished to support free settlers and from 1806, the British government tried to restrict migration to those who could afford to develop their land and support their families without assistance.[97]

93. Brisbane to Butterworth, 28 May 1824, Brisbane Papers ML FM4/1626, Section 1; S.G., 15, 29 July, 30 December 1824, 13 January, 3, 10 February 1825.
94. Cunningham, op.cit., p.35.
95. See Table 4; Madgwick, op.cit., pp.47-53.
96. Madgwick, op.cit., pp.7-25,29-30; "G.& J.Blaxland", "R.Townson", ADB, Vols.1 & 2.
97. Fletcher, op.cit., p.16.

Intending settlers were informed by the Colonial Office from 1813 that they must have at least £500.[98] Bathurst assured Macquarie that the Colonial Office would enforce this restriction but Macquarie complained of the ease with which it was evaded.[99]

In Britain, concern about overpopulation had challenged earlier fears that migration weakened the nation. With the end of hostilities in 1815, war industries were retrenched and demobilized soldiers added to employment problems. A series of bad harvests and regional distress, particularly in Ireland and the Scottish highlands, accentuated a mood of crisis. Pressures on the British government to reduce administrative expenses restricted government-assisted migration to a few schemes for soldiers and paupers in Canada and South Africa.[100] Voluntary migration was not discouraged and migration from Britain increased from 2,081 in 1815 to 34,787 in 1819, with the majority of emigrants going to the United States of America and the British North American colonies.[101]

Distance and a convict population attracted few migrants to New South Wales despite the Colonial Office's encouragement of settlers with capital. Advertisements in 1819 and 1820 invited men with property, integrity and energy to consider emigration to New South Wales, where they would increase the respectability of colonial society without becoming a burden

98. Fletcher, op.cit., p.17.
99. Bathurst to Macquarie, 3 February 1814, HRA i,VIII,130; Macquarie to Bathurst, 7 October 1814, ibid., p.303; Macquarie to Bathurst, 18 March 1816, HRA i,IX,58; Macquarie to Bathurst, 31 March 1817, ibid., p.238.
100. P.Knaplund, "Colonial Problems and Colonial Policy, 1815-1837", Cambridge History of the British Empire (Cambridge, 1961), Vol.2, pp.276-277; J.L.Morison, "Emigration and Land Policy, 1815-1873", ibid., pp.438-440, 444-445; H.J.M.Johnston, British Emigration Policy 1815-1830 (Oxford, 1972), pp.1-30,56; Madgwick, op.cit., pp.67-80.
101. Fletcher, op.cit., p.19; W.A.Carrothers, Emigration from the British Isles (London, 1929), Appendix 1, p.305.

for the government.[102] Nevertheless, the Colonial Office was not prepared to sanction uncontrolled emigration and it discouraged private attempts to establish regular transport to the colony.[103]

This was re-iterated in its guide for migrants. No free passages were available but persons wishing to settle in North America or the Cape of Good Hope did not require official approval. The governors of those colonies were authorized to grant land in proportion to a migrant's capital. Procedures for the Australian colonies were more restrictive.

> Persons desiring of settling in New South Wales or Van Diemen's Land must be provided with the sanction of H.M.Secretary of State; and this only can be obtained upon written application, accompanied by reference to two or more respectable persons, as to the extent of his capital which must amount to five hundred pounds at the least. [104]

A letter of introduction would then be provided, recommending the settler for a grant of land in proportion to his capital.

Bigge's reports supported free migration of capitalists to New South Wales. A wool industry, employing convicts and developing exports, required their capital whilst colonial society would benefit from an increase of respectable immigrants who would provide a buffer between the prejudices of the older free settlers and the former convicts.[105]

Emigration from Britain rose to a peak in 1819-1820 and then declined until the mid-1820s yet during this slight decline migration to New South Wales and Van Diemen's Land gathered

102. M.Phillips, A Colonial Autocracy (1909 and Sydney, 1971), p.115; Ritchie, Punishment and Profit, p.91; W.Wentworth to D.Wentworth, 1 May 1820, Wentworth Papers ML A756.
103. Goulburn to Raine, 28 April 1819, CO 324/141, f.66.
104. S.G., 9 August 1822.
105. Bigge, New South Wales, p.162; J.T.Bigge, Report of the Commissioner of Inquiry on the Judicial Establishments of New South Wales and Van Diemen's Land (1823 and facsimile edition Adelaide, 1966), p.41.

momentum. The Australian colonies were the only British settlements to attract more immigrants during these years than they had at the beginning of the decade. The increase was erratic, rising from two per cent of migration to British colonies to fluctuate from five to eight per cent though the numbers were still considerably below those attracted to either Canada or the West Indies.[106]

Emigration statistics collected at departure ports did not specify whether the destination was New South Wales or Van Diemen's Land nor did they distinguish the proportion of men, women and children. Between 1822 and 1825, 2,683 people left the United Kingdom for the Australian colonies.[107] During these years, the free population of New South Wales increased by 1,371 adults, or about half those who embarked from Britain.[108] Immigration from places other than Britain was negligible.

The 1828 New South Wales Census identified 964 free immigrants between 1822 and 1825, seventy per cent of the increase in the free population. Omissions and incomplete information, deaths, removals to Van Diemen's Land or returns to Britain account for the deficiency.[109] When divided into years of arrival, the identified migrants fall into groups of similar size which do not reflect the considerable fluctuations in the numbers leaving Britain.

106. Carrothers, op.cit., p.305; P.P., 1830, Vol.XXIX, p.435.
107. P.P., 1830, Vol.XXIX, p.435.
108. Colonial Returns 1822 and 1825. The earlier return does not distinguish children who came free. For migration to Van Diemen's Land, see below.
109. New South Wales Census, 1828. Merchants, such as Hindson, Spark and Peach, were one group who were omitted or incompletely recorded in the census. Only a small proportion of the increase in free settlers would have been due to immigrant children coming of age.

Table 6 - Migration to New South Wales, 1822-1825.[110]

Year	Departures from Britain for N.S.W. & V.D.L.	N.S.W. Arrivals Identified	Percentage Identified
1822	875	241	27.5
1823	543	233	42.9
1824	780	231	29.6
1825	485	259	53.4

The motivation of emigrants is difficult to assess. Problems at home and optimistic ambitions contribute to a decision to leave the familiar for a distant and unknown land. The positive attractions of a penal colony were limited. There had been regular accounts of the Australian colonies since the first settlement and in the decade after the Napoleonic War books and articles on New South Wales and Van Diemen's Land multiplied. Most were narratives, drawn from the journals of captains, surgeons, clergymen and other travellers with a few reminiscences by settlers and officials.[111]

W.C.Wentworth's Statistical, Historical and Political Description of the Colony of New South Wales, which appeared in 1819, was written as a political tract but included extensive descriptions and information for intending settlers in an effort to promote the colony as preferable to America for British migrants.[112] The advantages of the Australian colonies were free land, cheap convict servants and government rations for the settler, his family and servants for six

110. P.P., 1830, Vol.XXIX, p.435; New South Wales Census, 1828. An earlier return gives slightly different figures for migrants leaving Britain, with 873 in 1822 and 676 for 1823. P.P., 1824, Vol.XVII, p.249.
111. J.Ritchie, "The Colonial Office, New South Wales and the Bigge Reports 1815-1822", A.N.U. Historical Journal, October 1967, p.33; P.A.Conlon, The Other Side of the Mountain - An Investigation of Eyewitness Accounts of New South Wales and Van Diemen's Land Published Principally between 1815 and 1850, Unpublished M.A.(Hons.) Thesis, University of Sydney, 1973.
112. W.Wentworth to D.Wentworth, 25 May 1818, Wentworth Papers ML A756.

months.[113] The influence of this type of account is difficult to gauge but its republication in 1820 and a new edition in 1824 indicated a steady market. The formation of the Scottish Australian Company was influenced by Wentworth's book.[114] James Dixon, who published his Narrative of a Voyage to New South Wales and Van Diemen's Land in 1822, was a seaman and his interest in migration was prompted by commercial depression in Britain and the availability of shipping. His account was also influential in Scotland.[115]

The pressure of economic circumstances was a major influence on migrants. The Reverend J.D.Lang's description of the immigrants of the 1820s emphasized this. Some had been farmers or sons of landowners, others had lost property in mercantile affairs or had found its value was falling and were unable to cope with "the pressure of the times".[116] Although few migrants gave their reasons, some referred to economic conditions in their homeland.

T.P.Macqueen, one of the wealthiest men to consider settling in the colony, was attracted to New South Wales as early as 1819 because of economic and social disturbances in Britain.[117] William Panton, a silk shawl manufacturer, suffered heavy losses in the trade depression and decided to invest his remaining capital in sheep breeding in New South Wales.[118] S.L.Harris, an architect, left Ireland because of the "wretched depression of every kind of trade" while

113. Wentworth, op.cit., pp.422-423.
114. D.S.Macmillan, Scotland and Australia 1788-1850 (Oxford, 1967), p.39.
115. J.Dixon, Narrative of a Voyage to New South Wales and Van Diemen's Land in the Ship "Skelton" during 1820 (Edinburgh, 1822), p.13; Macmillan, op.cit., pp.50-53.
116. Quoted in R.M.Hartwell, "Australia's First Trade Cycle", JRAHS, 42 (1956), p.59. Ritchie found similar reasons among the migrants of 1821. Ritchie, "The Colonial Office", p.34.
117. J.J.Eddy, Britain and the Australian Colonies 1818-1831 (Oxford, 1969), p.39; "T.Macqueen", ADB, Vol.2.
118. Panton to Wilmot-Horton, 12 January 1822, CO 201/113, f.227.

Charles Farrell, a linen and yarn inspector in Ireland, also found the troubled conditions an incentive to leave.[119] Lieutenant Percy Simpson felt that his half-pay was inadequate to support his family and he hoped that his capital would provide better opportunities in the colony.[120] In New South Wales, there was little surprise at the increase in migrants because of "gloomy accounts" of the situation in Britain.[121]

The incentive to leave Britain had to be complemented by attraction to a particular destination. Both New South Wales and Van Diemen's Land were anxious to attract immigrants and the colonists in New South Wales were dismayed that many British migrants preferred to settle in the southern colony. Macquarie had commented on this trend in 1821[122] and in July 1822 the Sydney Gazette observed that Van Diemen's Land had acquired 400-500 immigrants within the last year, one-third of whom were respectable families with their servants.[123] The president of the New South Wales Agricultural Society criticized Wentworth's favourable account of the southern colony[124] but other accounts such as Dixon's Narrative and the Reverend T.Godwin's Emigrants Guide to Van Diemen's Land also preferred the southern colony.[125]

The colonists in New South Wales believed that these accounts were exaggerated. New settlers, having formed friendships on the ship and weary of the long voyage, tended to try their luck together at the first port, Hobart. Dixon

119. Harris to Bathurst, 8, 16 April 1822, CO.201/112, ff.549-555; Farrell to Wilmot-Horton, 16 May 1823, CO 201/148, f/298.
120. Simpson to Bathurst, 26 February 1822, CO 201/111, f.581; Simpson to Wilmot-Horton, 3 March 1822, CO 201/113, f.374.
121. E.Macarthur to E.Kingdon, 21 September 1822 in Onslow, op.cit., p.375.
122. Macquarie to Bathurst, 21 July 1821, HRA i,X,534.
123. S.G., 19 July 1822.
124. S.G., 10 July 1823.
125. S.G., 4 September 1823; Dixon, op.cit., p.68.

had favoured the smaller colony because good land was closer to the main settlement but by 1825 this was no longer so. The southern colony was more suited to agriculture but by the 1820s good large grants were at a premium. New South Wales was better suited for grazing and, despite the shortage of land close to Sydney, there was ample good land in the new regions of the Hunter Valley and Bathurst. Many settlers lost their capital before realizing the differences between the two colonies and several settlers, such as William Kelman and John Campbell and his family, moved from Van Diemen's Land to New South Wales.[126]

Some migrants were uncertain of their destination[127] but many others were influenced by friends or relatives already in the colony. John and Edward Stack, aged twenty-three and eighteen, migrated when agricultural conditions in Ireland reduced their family's income. They chose New South Wales because two brothers were employed by Hannibal Macarthur. They had no money for their passage and worked their way out.[128] William Fisher decided on New South Wales because his uncle was the resident agent for the Australian Company and could guarantee his finances.[129] Peter Gardner's choice was similar. He had a number of relatives who were merchants in New South Wales.[130] John Carmichael, a London bread and biscuit maker, decided to sell his business after his wife's death and take his family to New South Wales, where a friend, James Robertson

126. S.G., 28 June 1822, 30 January, 4 September 1823, 24 March 1825; Dixon, op.cit., p.68; J.West, The History of Tasmania (2 vols., 1852 and facsimilie edition Adelaide, 1966), Vol.1, pp.67-68; M.Herman (ed.), Annabella Boswell's Journal (Sydney, 1965), pp.170-173; Kelman/Busby correspondence, ML MSS 1183.
127. e.g. McLeod to Wilmot-Horton, 2, 25 October 1823, CO 201/149, f.98,106.
128. Petition of J. & E.Stack, 8 May 1822, CO 201/113, f.410.
129. Fisher to Monteith, 5 January 1823, CO 201/170, f.401.
130. Johnson to Wilmot-Horton, 8 December 1824, CO 201/159, f.584.

the governor's clockmaker, would assist him.[131] Families of young men who had gone to the colony as protégés of the new governor often followed if their relatives were successful.[132]

Other migrants, such as Dr John Malcolm and John Pike, had worked in the colony and, after returning to Britain, decided to emigrate permanently.[133] Daniel Peach and Duncan Mackellar had visited New South Wales as ship's captains and were two of several captains and owners who returned as settlers.[134] William Jemmett Browne and Richard Jones had spent a number of years in Sydney as merchants before they decided to make it their permanent home and bring out their families.[135] Some migrants relied on the advice of acquaintances. Edward Keith, an attorney, accepted the recommendation of former judge Barron Field to take his family to New South Wales.[136]

The Colonial Office stipulated that only migrants with £500 and their passage money would be permitted to go to the Australian colonies. Although passenger and freight rates had fallen because of surplus tonnage after the war,[137] the cost of a passage was a minimum of £30-£40 per head

131. Carmichael to Bathurst, 4 November 1824, CO 201/159, f.261; Currie to Wilmot-Horton, 13 November 1824, ibid., f.265.
132. Buchanan to Wilmot-Horton, 16 March 1824, ibid., f.72; Cavenagh to Bathurst, 16 February 1824, ibid., f.183.
133. Malcolm to Bathurst, 2 June 1823, CO 201/149, f.44; Pike to Bathurst, 3 May 1824, CO 201/160, f.206.
134. Peach to Bathurst, 2 November 1824, CO 201/160, f.233; D.Mackellar, Memorial, 14 October 1825, CSIL Memorials re:Land 4/1843A; Cumpston, op.cit., p.132,137,157,158; D.S.Macmillan, "The Rise of the British Australian Shipping Trade 1810-1827: Its Problems, Progress and Promoters", in A.Birch and D.S.Macmillan (eds.), Wealth and Progress. Studies in Australian Business History (Sydney, 1967), pp.12-13.
135. Browne to Wilmot-Horton, 15 February 1825, CO 201/170, f.54; Aspinall, Browne and Aspinall to Bathurst, 6 January 1825, ibid., f.21; Jones to Bathurst, 19 October 1824, CO 201/159, f.570.
136. Keith to Bathurst, 29 March 1825, CO 201/170, f.350.
137. Ritchie, Punishment and Profit, pp.91-92.

steerage or £70-£100 cabin as well as the freight of personal belongings.[138] Demand for passages increased from 1819 and many settlers travelled at the cheaper steerage rates.[139] A passenger on the Princess Charlotte in 1823 reported that the ship was filled with steerage passengers "not of the pleasantest sort".[140]

Despite the increased departures for the Australian colonies, the number of applications to the Colonial Office declined, as shown in Table 7. Only one-fifth of the migrants of these years had received official sanction to settle in the colony.[141] Many had already booked passage or were on board their ship before they wrote for introductions for a land grant.[142] Others arrived in the colony with sufficient capital but without a letter from the Colonial Office.[143] In spite of its preference for capitalist settlers, the Colonial Office exerted no real control over the migrants of this period.

Table 7 - Applications to the Colonial Office for Permission To Settle in New South Wales, 1822-1825.[144]

Year	Applicants With £500	Departures for N.S.W. and V.D.L.
1822	276	875
1823	201	543
1824	191	780
1825	122	485

138. Ritchie, Punishment and Profit, pp.91-92; Wentworth, op.cit., p.425; Cunningham, op.cit., p.257; J.Atkinson, op.cit., p.125.
139. Macmillan, "Shipping Trade", pp.11-13.
140. G.Abbott and G.Little, The Respectable Sydney Merchant - A.B.Spark of Tempe (Sydney, 1976), p.32.
141. 215 individuals (96 applications) out of 964 migrants identified in the 1828 census. There were also a number of applications from settlers who did go to New South Wales but were not listed in the census. CO 201/112-113,148-149,159-160,170; HRA i,X,X1; New South Wales Census, 1828.
142. McFarlane to Bathurst, 5 August 1823, CO 201/149, f.63; Campbell to Hay, 27 July 1825, CO 201/170, f.171; Keith to Wilmot-Horton, 30 March 1825, ibid., f.348.
143. Macmillan, Scotland and Australia, p.128.
144. Ibid., Table 11, p.77; P.P., 1830, Vol.XXIX, p.435.

Mechanics who applied to migrate to New South Wales were received coolly. In 1822, Jesse Pullen enquired if mechanics were considered as settlers and if they required the same amount of capital as agricultural settlers. The Colonial Office replied that letters of recommendation were not given to those with less than £500 but the capital did not have to be invested in agriculture. Although the Colonial Office was prepared to make some concessions to Pullen's patron, member of parliament Joseph Butterworth, it opposed the migration of anyone with only £200.[145]

In New South Wales, the new settlers and fewer convict arrivals generated a high demand for convict and free labour. In 1823, Bathurst raised the possibility of official encouragement for free mechanics and agricultural labourers but such a policy was conditional on all convict labour being absorbed by the settlers and was not developed.[146]

Brisbane requested that reliable free tradesmen be encouraged to migrate to break the monopoly of the convict mechanics.[147] The Sydney Gazette provided information for its British readers on trades for which there was certain employment.[148] Books on the colony referred to the shortage of skilled labour and listed useful trades.[149] Wentworth assured the labourer and tradesman that they would find employment in the colony,[150] though Cunningham thought that common labourers would find more opportunities in America where

145. Pullen to Bathurst, 27 February 1822, CO 201/113, f.238; Wilmot-Horton to Pullen, 8 March 1822, CO 324/144, p.48; Wilmot-Horton to Butterworth, 21 March 1822, ibid., p.64.
146. Bathurst to Brisbane, 30 May 1823, HRA i,X1,86.
147. Brisbane to Bathurst, 29 October 1824, ibid., pp.385-388.
148. S.G., 27 January, 24 March 1825.
149. Wentworth, op.cit., pp.408-409; J.Atkinson, op.cit., pp.105-106.
150. Wentworth, op.cit., pp.407-409.

there was no competition from unskilled convict labour.[151]

Encouragement of free labourers was confined to private ventures. In 1823, British parliamentarian T.P.Macqueen planned to send paupers to the colony to work on his grant.[152] In 1824, the Scottish Australian Company advertized a scheme for sponsored migration. A settler wanting farm labourers or domestic servants applied to the company's agent who sent the details to his Scottish office. Applicants were selected by the company in Britain and the settler paid for their passage.[153] In 1825, the Australian Agricultural Company hired its domestic servants, woolsorters, millers, bricklayers, carpenters and ploughmen as well as shepherds in Britain to ensure an adequate labour force in the colony.[154]

The Colonial Office attached the greatest importance to men with capital to invest in either land or trade. Bathurst repeatedly stressed that it was

> of the first importance to afford every countenance and support to settlers of Capital and respectability.[155]

and he was concerned by complaints that such men did not receive immediate and preferential treatment.[156] They were the key to the "present Revenue as well as the future prosperity of the Colony".[157] This attitude was epitomized in the new land regulations issued by the Colonial Office in 1825 which sought to ensure that land was held only by those who could afford to improve it. "The command of Capital" was the "essential

151. Cunningham, op.cit., p.13.
152. Macqueen to Wilmot-Horton, 21 July 1823, HRA i,X1,142.
153. S.G., 9 December 1824; Macmillan, Scotland and Australia, p.165,183-184.
154. S.G., 14 November 1825.
155. Bathurst to Brisbane, 3 March 1823, HRA i,X1,50.
156. e.g. from V.Jacob and T.H.James. Bathurst to Brisbane, 3 March 1823, 1 February 1825, ibid., pp.49-50,484-485.
157. Bathurst to Brisbane, 1 February 1825, ibid., pp.484-485.

qualification of every Agricultural Settler in New South Wales".[158]

Most of the migrants who did apply to the Colonial Office stated that they possessed the necessary amount of capital. Their statement was verified by two referees but often these references were a comment on the respectability of the applicant rather than details of his capital.[159] Both Macquarie and Brisbane complained that the capital of many settlers approved by the Colonial Office was fictitious. Others invested their small means in goods on which they hoped to make sufficient profit to establish themselves in the colony.[160] Even settlers who left Britain with funds succumbed to the temptation to invest in tobacco or spirits at ports of call, such as Rio de Janiero. David Reid possessed sufficient capital for a land grant but had a long wait before he could liquidate his tobacco investment.[161]

The £500 minimum capital determined by the Colonial Office was considerably less than most propagandists for colonial migration recommended. Although Wentworth was confident that the common labourer, tradesman and farmer would make a good living in the colony, the greatest opportunities were available for the capitalist willing to invest in fine-wool production, an enterprise which required an initial investment of £1,000 in stock alone.[162] Atkinson's handbook of advice to farming emigrants was based on an

158. Bathurst to Brisbane, 1 January 1825, HRA i,X1,439-440. See Chapter 5.
159. e.g. Wilmot-Horton to Brisbane, 10 February 1825, with encls., HRA i,X1,522; Reference by Rev.J.Muir for J.Greig, 18 January 1823, CO 201/148, f.12.
160. Macquarie to Bathurst, 21 July 1821, HRA i,X,534; Brisbane to Wilmot-Horton, 24 March 1825, HRA i,X1,554; J.Macarthur jr to J.Macarthur, 1 June 1821, Macarthur Papers ML A2911.
161. D.Reid, Memorial, 16 January 1822, CSIL Memorials re:Land 4/1831.
162. Wentworth, op.cit., pp.403-411.

investment capital of £1,000-£1,500 in addition to funds for passage and freight.[163] Cunningham believed that £1,200 was essential to establish the migrant successfully in agricultural activities, though a bachelor household of three or four men with £400 each, or a group capital of £1,200, might be successful.[164]

Most of those who applied to the Colonial Office stated that they intended to use their capital for agricultural purposes. A number, particularly among the Scots, referred to their general agricultural knowledge or background as farmers or sons of landowners.[165] William Thurlow had been a farmer for many years before he decided to re-invest his capital in sheep-breeding with his sons in New South Wales.[166] James Greig was the son of a small Scottish landowner and was compelled to leave his homeland by poor agricultural conditions.[167] Duncan Sinclair was also the son of a farmer and had fifteen years' experience as a planter in Jamaica before settling in New South Wales with his brother.[168] Others, such as George Galbraith, were younger sons for whom there was no future on their families' farms.[169] James Atkinson commented that few of the new settlers who invested in rural activities had adequate farming experience or were willing to suffer the inconveniences or hard work entailed in establishing their farms.[170]

163. J.Atkinson, op.cit., p.126.
164. Cunningham, op.cit., p.10,13,225-226.
165. Macmillan, Scotland and Australia, p.124.
166. Thurlow to Wilmot-Horton, 9 December 1824, CO 201/160, f.374.
167. Adam to Bathurst, 26 February 1823, CO 201/148, ff.10-12.
168. Sinclair to Bathurst, 17 April 1822, CO 201/113, ff.394-396.
169. Drummond to Wilmot-Horton, 5 January 1824, CO 201/159, f.280.
170. J.Atkinson, op.cit., p.34,128-129.

Many of the new immigrants who became merchants already had a background in trade. T.H.James was the son of a merchant and had business experience himself before he came to the colony to follow mercantile and agricultural pursuits.[171] David Maziere, son of a doctor, had served his apprenticeship in a mercantile firm before deciding to go to New South Wales as a "trading settler".[172] Francis Mitchell's initial voyage to the colony was on a ship owned by his employers. He decided to stay and formed a mercantile partnership with another new settler, Peter Rapsey.[173] George Bunn and William Powditch had made voyages to the colony as masters of ships and had experience of its commercial life.[174]

Analysis of the 964 immigrants identified in the 1828 census by year of arrival, family size, age and occupation provides a broader view of the new settlers. The results are shown in Table 8.

More than half of the identified migrants arrived in a family unit of parents, children and occasionally grandparents or as married couples without children. They covered a wide social spectrum from labourers, tradesmen and farmers to government officials. Among those families in which all members were free, twenty-eight of the sixty-eight families received land grants from Brisbane and another ten had acquired land by 1828. About half the heads of families were under forty years of age. The childless couples included a higher proportion of younger men and a greater range of skills and

171. James, Wood and James to Bathurst, 15 November 1823, CO 201/148, f.534.
172. Maziere to Bathurst, 19 March 1822, CO 201/113, f.89.
173. Cockerell to Wilmot-Horton, 22 June 1822, CO 201/112, ff.210-212; Mitchell to Bathurst, 24 June 1822, CO 201/113, f.116; Mitchell to Bathurst, 9 December 1825, CO 201/170, f.448.
174. Powditch to Bathurst, 18 August 1823, CO 201/149, f.180; Cumpston, op.cit., p.138; S.G., 10 November 1821.

Table 8 - Immigrants, 1822-1825.[175]

Group (Figures in brackets indicate number of families)	Year of Arrival 1822	1823	1824	1825	Total Number of Individuals
Family Groups					
Family all free	(18) 85	(13) 64	(17) 70	(20) 89	308
Convict members	(22) 50	(24) 46	(22) 31	(16) 27	154
Married Couples (no migrant children)	22	30	26	28	106
Total in Family Groups	157	140	127	144	568
Single Men					
Under 30 years	25	25	52	53	155
Age 31-40 years	8	9	7	14	38
Age 41 or over/ age unknown	4	5	11	11	31
Total Single Men	37	39	70	78	244
Others					
Men arrived alone, family followed or married in colony	26	22	8	16	72
Women arrived alone	4	15	11	9	39
Women married in colony or family followed	5	7	1	6	19
Women arrived with dependent children	7	4	4	4	19
Children under 14, no family identified	5	6	10	2	23
TOTAL NUMBER OF IMMIGRANTS	241	233	231	259	964

175. New South Wales Census, 1828. Age and marital status as time of census. Family groups defined as those residing together. Children born after arrival have been excluded from numbers in family groups. Because of the variations in the proportion of each year's immigrants identified (See Table 6), conclusions drawn from the analysis of immigrants in 1823 and 1825 are probably more accurate than the figures for 1822 and 1824.

professions, particularly in 1824 and 1825 when surveyors, architects, a druggist, millwright, cutler and botanist arrived. Half of the married couples received land grants in the new settlements while a higher proportion of the free families remained in the Cumberland Plain.[176]

There was a steady decrease in migrants identified as joining a member of the family who was or had been a convict.[177] Very few families arrived in response to a government policy which allowed certain convicts the privilege of being joined by their families, if they could support them. Only three out of twenty-two families in 1824 and five out of sixteen families in 1825 migrated as a result of this policy.[178] Most of these migrants were women and children, following husbands, sons or occasionally fathers and there were only five cases of families joining a female convict. The convicts were ticket of leave men, those still under sentence and those who had completed their sentences. Most had a trade, such as carpenter, sawyer or wheelwright and lived in Sydney. Few owned or leased land. These immigrants included the families of Jonathan Leak, a potter, Jacob Josephson, a jeweller and John Tawell, an apothecary.

One quarter of the migrants were men without female dependents and a large proportion were aged between fifteen and thirty in 1828. This confirms earlier observations that many of the immigrants were young unmarried men.[179] Some had

176. New South Wales Census, 1828; List of Orders for Land Grants Made by Sir Thomas Brisbane 1821-1825, Surveyor General's Order Book AONSW 7/1279. See Chapter 5 for land grants to free immigrants.
177. But compare J.Waldersee, Catholic Society in New South Wales 1788-1860 (Sydney, 1974), pp.81-82 that the number of families joining convicts increased after 1825.
178. Alphabetical Lists of 134 Convicts Recommended to have their Families sent out, 21 February, 28 November 1823, AONSW 4/1637, pp.236-265.
179. T.A.Coghlan, The Wealth and Progress of New South Wales 1896-1897 (Sydney, 1897), p.13; E.Macarthur to E.Kingdon, 4 September 1822 in Onslow, op.cit., p.374. Ritchie found that the migrants of 1821 tended to be nearer forty years of age. Ritchie, "The Colonial Office", p.34.

come alone; others arrived in family groups of brothers or fathers and sons. While one member found paid employment, the others worked their land. The range of occupations of the single men diversified as their numbers increased but a consistently high proportion, about fifty per cent of each year's arrivals, took up occupations on the rural frontier of the colony. About one-quarter received their own land grants. Others became agricultural superintendents and overseers, shepherds or labouring servants. Among those who did not turn to the land, many were educated young men who became clerks in government offices or with merchants. There were a variety of tradesmen, some servants and labourers and a small number who entered the commercial sector as merchants, shopkeepers and publicans.

James Dixon had recommended young men to migrate because men over forty years of age were too set in their ways to become successful settlers in a new country.[180] The youth of many of the immigrants also implied lack of capital.[181] Mrs Macarthur, observing the new immigrants, was concerned by their extreme youth. She felt that settlers should be at least twenty-one or twenty-two before they tackled the enormous difficulties of establishing themselves, especially when they had only small amounts of capital.[182]

Increased migration had little impact on the disproportion of the sexes. The number of single women who arrived with their families was small compared to the large number of

180. Dixon, op.cit., p.75.
181. Waldersee, op.cit., p.82 in his analysis of Catholic immigrants in this period also found that many had little capital.
182. E.Macarthur to E.Kingdon, 4 September 1822 in Onslow, op.cit., pp.374-375.

young unmarried men and few women made the voyage to New South Wales alone. Those who married in the colony tended to marry immigrant men. Very few of the single men immigrants had married by 1828; those who did preferred colonial-born girls and only four married convict women.

There were some retired or half-pay military and naval officers among the immigrants.[183] Robert Futter and Percy Simpson gained recognition as officials and magistrates.[184] Alexander McLeod and J.P.Webber were related to prominent military officers in Britain and, since they were men with financial resources, they received large grants.[185] Atkinson thought that military settlers were often unsuccessful and few of the officers of the garrison chose to settle.[186] Among the smaller settlers, there were a number of pensioned soldiers and non-commissioned officers.[187]

A high proportion of the migrants were from Scotland, particularly the eastern region near Edinburgh. They were often men of some wealth, with farming or mercantile experience, and they quickly became prominent in Van Diemen's Land and New South Wales. A number of officials, particularly in the commissariat, were Scottish.[188]

Bigge had cautioned the intending settler that success in New South Wales would only be achieved through personal

183. Cunningham, op.cit., p.5 over-emphasized the military settlers in the earlier years. Editor's note by D.S.Macmillan, ibid., p.357. Military settlers were more important after 1826. Madgwick, op.cit., pp.54-56.
184. Futter to Bathurst, 25 March 1823, CO 201/148, f.286; Simpson to Bathurst, 26 February 1822, CO 201/111, f.581.
185. McLeod to Wilmot-Horton, 2 October 1823, CO 201/149, f.98; Webber to Goulburn, 17 January 1822, with minute, CSIL Memorials re:Land 4/1832.
186. J.Atkinson, op.cit., p.34; E.Macarthur to E.Kingdon, 4 September 1822 in Onslow, op.cit., p.374.
187. S.G., 27 November 1823. See also Chapter 5.
188. Macmillan, Scotland and Australia, p.57,64,79,86. Probably a number were influenced by the appointment of two Scottish governors, Macquarie and Brisbane.

sacrifices and there would be no quick return on either his capital or his labour.[189] Few of the newcomers anticipated these privations. Some felt that the printed accounts of the colony had been too favourable[190] or that the opportunities for easy success had already passed.[191] Young men like John Stewart and Michael Hindmarsh hated their close supervision of convict labourers.[192] Others such as Mrs Hawkins faced the difficulties with greater fortitude but she warned her friends against migrating with a large young family and slender means. Without the assurance of a government appointment for her husband and assistance in reaching their destination over the mountains, their difficulties would have been crushing.[193] Brisbane recognized and respected the efforts of these settlers.

> New South Wales has been fortunate in the acquisition of some Individuals of considerable Capital and they are now in the Country; but, like other new Colonies, it presents many difficulties to be overcome, which may alarm the most persevering; it possesses some peculiar disadvantages and capitalists do not often go to new countries....The bad character of the Masses of the Inhabitants must in itself be for many an extreme difficulty. [194]

The established free settlers welcomed the immigrants because of their capital, industry and respectability.[195] The new arrivals soon outnumbered the earlier settlers. In 1821, only 106 free settlers owned more than 500 acres[196] but during

189. Bigge, New South Wales, p.162.
190. Walker to Watson, - December (1821?), ML BT Box 52, p.1045.
191. R.Crawford to H.Crawford, 10 December 1823, Brisbane Papers GA Ardgowan 293; Hindmarsh to Nisbet, 22 May 1824, Hindmarsh Papers ML A3164.
192. Stewart to Bruce, 1 September 1824, Brisbane Papers ML UCMSS 329; M.Hindmarsh to H.Hindmarsh, 6 November 1825, Hindmarsh Papers ML A3164.
193. E.Hawkins, "Journey from Sydney to Bathurst in 1822" in G.Mackaness (ed.), Fourteen Journeys Over the Blue Mountains of New South Wales 1813-1841 (3 vols., Dubbo, 1978), Vol.2, p.29.
194. Brisbane to Bathurst, 23 May 1825, HRA i,X1,609.
195. Evidence of J.Macarthur and W.Howe in Ritchie, Bigge - Written Evidence, pp.57-58,74; S.G., 2 June 1825; Petition to Bathurst, (December?)1825, HRA iv,1,634.
196. Fletcher, op.cit., p.217.

the next four years 182 new settlers received grants of more than 500 acres and many received as much as 2,000 acres.[197] Yet, despite their numbers, the immediate impact of the new settlers was limited. Most disappeared into the country and were isolated on their grants, often without contact with other people for months on end.[198] In Sydney, the number of new government officials was a more noticeable change for the older inhabitants.[199] In commercial affairs, the newcomers rapidly took the initiative. Only three of ten directors of the new Bank of Australia which opened in 1826 had been in the colony for more than ten years and six had arrived during Brisbane's administration. Nevertheless, this institution attracted the support of the most prominent of the established settlers of the earlier period.[200]

At first, some of the older settlers feared that the newcomers might exploit the bitter divisions among the old "aristocrats"[201] but many of the new settlers adopted the attitudes of their predecessors.[202] Helenus Scott respected the achievements and the seclusion of the Macarthur family. By comparison, most of the Hawkesbury settlers were drunken and lazy and even prominent settlers such as Dr John Harris and Archibald Bell were content to manage their affairs with little efficiency.[203] The Scott brothers were fortunate. Despite the isolation of their grant at the Hunter Valley,

197. See Chapter 5.
198. E.Macarthur to E.Kingdon, 7 June 1824 in Onslow, op.cit., p.451; H.Scott to Mrs Scott, n.d. (October 1824?), Scott Papers ML A2264.
199. E.Macarthur to E.Kingdon, 7 June 1824 in Onslow, op.cit., p.451.
200. Directors of the Bank of Australia to McLeay, 16 May 1826, HRA i,X11,307; Butlin, op.cit., pp.195-196.
201. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.38.
202. See Chapter 8.
203. H.Scott to Mrs Scott, n.d.(October 1824?), Scott Papers ML A2264.

they were welcomed at the private entertainments of officials and established settlers whenever they came to the settled districts. Dining with men such as Captain John Piper and Sir John Jamison, enjoying the family gatherings of the Bell family and conducting business with John Macarthur, Robert and Helenus Scott quickly absorbed many of the values of colonial society.[204] Shared ambitions created powerful allies and Cox, Lawson and Marsden encouraged the pastoral activities of new arrivals such as George Rankin.[205]

The first generation of white children born in the colony reached maturity in the 1820s. The number of colonial born adults doubled between 1821 and 1825, reaching 3,680 men and women. Most lived in Sydney or Parramatta, with about one-quarter in the Hawkesbury districts. As a group, they were the least affected by the outward spread of population.[206]

Eighty to ninety per cent of the colonial children had at least one parent who was or had been a convict.[207] To the surprise and relief of contemporary observers, they showed little inclination for drinking, promiscuity or criminal activities, excesses which were accepted as common among their parents.[208] Recent research into their family background has shown that the majority lived in a family unit with their parents, working on their land or following a trade similar to that of their fathers.[209] Their loyalty to their parents

204. H.Scott to R.Scott, 8 August 1824, Scott Papers ML A2264; H.Scott to Mrs Scott, n.d. (October 1824?), ibid.
205. Cox to Rankin, 21 July 1824, Rankin Letters ML DOC 1244/b.
206. See Tables 4 & 5; Waldersee, op.cit., p.87.
207. K.Macnab and R.Ward, "The Nature and Nurture of the First Generation of Native-Born Australians", Historical Studies, 10 (1962), p.299.
208. Bigge, Agriculture and Trade, pp.81-82; Cunningham, op.cit., p.206; Evidence of Cartwright in Ritchie, Bigge - Oral Evidence, p.157.
209. P.Robinson, The Hatch and Brood of Time: Recreating a Generation of Parents and Children, New South Wales 1788-1828, p.13. I would like to thank Mrs Robinson for lending me this unpublished paper which she presented at the ANZAAS Conference, Auckland, New Zealand in January 1979. The paper is based on research for her forthcoming thesis on the colonial born.

caused clashes with the soldiers and was generally acknowledged as the reason why few became police constables.[210]

The terms "currency" or "cornstalk" distinguished the colonial children from their British born or "sterling" contemporaries.[211] The status of the colonial born depended on their parents' success.[212] The children of the Hawkesbury settlers, who were disparaged as drunken and lazy, were regarded in a similar light. Robert Howe, an ardent Wesleyan, disliked pastoral visits to the Windsor district. He would "sooner go to the Heathen...than have to preach to those miserable and filthy and hardened cornstalks".[213] By the close of the Macquarie period, some colonial born adults resented the preferential treatment of the immigrants[214] and in the 1820s there was considerable sympathy for their claim to land.[215] A toast by the colonial secretary, Frederick Goulburn, to the "currency lads" at a public dinner was popularly regarded as official encouragement of their aspirations.[216]

The government accepted responsibility for educating the colonial children. At the close of Macquarie's government, there were sixteen government schools in Sydney and the settled districts, including Newcastle, two orphan schools, eleven private schools in Sydney and five at Parramatta, including one for Roman Catholic children. A few families employed private tutors or governesses for their children. Possibly 1,000 to 1,300 of the colony's 7,568 children attended school in

210. S.G., 6 January, 24 March 1825; Cunningham, op.cit., p.211.
211. Cunningham, op.cit., p.206,238.
212. Robinson, op.cit., p.18.
213. R.Howe, Diary, 20 August 1822, ML B846/1.
214. Evidence of Bent quoted in Clark, Select Documents, p.411.
215. See Chapter 5.
216. Cunningham, op.cit., p.207.

1821.[217]

In 1820 the British government had sent the Reverend Thomas Reddall to introduce Dr Bell's Madras system of education which used monitors as teachers.[218] He had made little progress by 1824 when Brisbane extended his appointment to director-general of government schools to remedy the "languishing state of education".[219] This position was superseded by the establishment of the Church and School Corporation and the appointment of Archdeacon Scott as visitor of schools in 1825.[220] Scott was not impressed by Brisbane's "vague" interest in education and was critical that the governor did not provide more practical assistance.[221] He recruited colonial youths to train as teachers, retrained existing teachers in the Madras system and recommended five additional government schools in outlying areas.[222]

Brisbane had applied unsuccessfully for married clergy to manage the orphan schools[223] and following the ill-health and deaths of the superintendents appointed in Britain, he reorganized these schools. Brisbane appointed the Wesleyan missionary, William Walker, as Master of the Female Orphan School and the Reverend Robert Cartwright was placed in charge of the Male Orphan School.[224] Walker's appointment caused

217. Bigge, Agriculture and Trade, pp.70-76; V.Goodin, "Public Education in New South Wales before 1848, Part 1V", JRAHS, 36 (1950), pp.187-189.
218. Bigge, Agriculture and Trade, p.71,75; A.G.Austin, Australian Education 1788-1900 (Carlton, 1977), pp.8-9.
219. Brisbane to Bathurst, 14 October 1824, HRA i,X1,380.
220. Bathurst to Brisbane, 21 December 1824, 20 June 1825, ibid., p.419,670; R.J.Burns, "Archdeacon Scott and the Church and School Corporation", in C.Turney (ed.), Pioneers of Australian Education (Sydney, 1969), pp.9-25.
221. W.Foster, "The Era of Archdeacon Scott in Education", JRAHS, 47 (1961), p.159.
222. Ibid.; S.G., 16 June 1825; Burns, op.cit., p.20.
223. Brisbane to Bathurst, 5 April 1822, HRA i,X,629; Bathurst to Brisbane, 25 March 1823, HRA i,X1,61; Brisbane to (Bruce?), 31 December 1823, Brisbane Papers ML UCMSS 329; Bigge, Agriculture and Trade, pp.74-76.
224. Brisbane to Bathurst, 3 October 1825, HRA i,X1,863-864; "R.Cartwright", "W.Walker", ADB, Vols. 1 and 2.

much bitterness among Anglican and Wesleyan clergy and Scott was critical of his management.[225]

As well as schools financed by the government and supervised by the Anglican clergy, some elementary education was provided by the Wesleyan Sunday schools which in 1822 had 180 pupils, including 100 convict boys.[226] Laurence Halloran's academy was the most successful post-elementary school and he gained wide support for his proposed Sydney Free Grammar School in 1825.[227] Private schools like Gilbert Macleod's academy and Captain Beveridge's Naval Seminary leaned to vocational subjects.[228] The rapid spread of settlement encouraged small private boading schools for boys and girls whose families lived in isolated areas.[229]

Nevertheless, more than half of the colonial children ~~did not receive an elementary education~~ were not at school. Only 1,817 of 5,042 children under fourteen years of age were at school in 1824 and this number declined slightly in 1825. Half attended five private schools and the others went to fifteen government schools.[230] By 1825, the government supported twenty schools, including a new infant school and a Roman Catholic school, but the teachers were often untrained and problems of distance meant that attendence was poor despite the general willingness of parents to educate their children.[231]

225. Erskine to Cowper, 18 November 1825, ML BT Box 53, p.1581; Scott to the Bishop of London, n.d.(January 1826?), ibid., pp.1574-1578; Scott, Report on the Church and School Establishments, 1 May 1826, HRA i,X11,312-313. See also Chapters 7 and 8.
226. Mansfield to Wesleyan Committee, 31 January 1822, ML BT Box 52, pp.1082-1883; Bigge, Agriculture and Trade, p.76; C.Turney (ed.), Sources in the History of Australian Education 1788-1970 (Sydney, 1975), pp.32-35.
227. A.Barcan, A Short History of Education in New South Wales (Sydney, 1965), pp.43-44; S.G., 29 September 1825; "L.Halloran", ADB, Vol.1.
228. S.G., 26 December 1825; Cunningham, op.cit., p.242.
229. S.G., 15 May 1823, 7 October 1824.
230. Scott, Report on the Church and School Establishments, 1 May 1826, HRA i,X11,314.
231. Ibid., pp.312-315; Colonial Returns 1825; "Irrnophilos", S.G., 6 May 1824.

In the 1820s, the achievements of a number of the first generation of colonial born were recognized. The most outstanding ~~were~~ was William Charles Wentworth, who published a book on the colony, became a successful lawyer and was co-founder of the colony's first independent newspaper while Phillip Parker King, the first colonial born naval officer, completed a marine survey of the continent in 1822.[232] Locally appreciated efforts included the exploration work of Hamilton Hume and Archibald Bell junior.[233] Reiby and Wills were the first colonial born to purchase a vessel for the Pacific trade[234] and Richard Driver's sheep breeding efforts were praised.[235] The families of these young men covered the spectrum of colonial society. King's father had been governor; Wentworth's father was a leading official but his mother had been a convict; Hume and Bell were sons of free settlers and the families of Reiby and Wills were prominent emancipist merchants.

By 1828, barely one-quarter of the colonial born men had married; most chose currency brides. Marriage was more common among the colonial girls but about half married convicts, often servants in their families' homes.[236] Free settlers willingly associated with the colonial born[237] and the marriages of colonial youths enabled society to avoid the rigidity that could have developed from its convict origins.

Recent free merchants were prominent in mixing with the

232. "P.P.King", "W.C.Wentworth", ADB, Vol.2. See also Chapters 7 and 8.
233. "A.Bell", "H.Hume", ADB, Vol.1.
234. S.G., 15 July 1824.
235. R.Driver, Memorial, 28 February 1825, CSIL Memorials re:Land 4/1841B; S.G., 14 July 1825.
236. Robinson, op.cit., pp.14-15; Waldersee, op.cit., pp.90-91.
237. Bigge, Judicial Report, p.41.

former convict merchants and often married daughters of wealthy emancipists.[238] These girls enjoyed the advantages of their parents' achievements.[239] They were the colonial heiresses, perhaps brought up like Sarah Ann Lord, daughter of Simeon Lord, in the home of the judge-advocate, well-educated with genteel manners, the acknowledged belle of the colony. Her future husband, Dr David Ramsay of the merchant firm of Raine and Ramsay, wrote to his family of her attributes, including her generous dowry, but did not mention that her father had been a convict.[240] Prosper de Mestre had been prominent in legal disputes with the emancipists in 1820, yet he married Lord's step-daughter in 1821.[241] Another free merchant, John Atkinson of Atkinson and Bingle, married Jane Reiby, daughter of the emancipist merchant Mrs Mary Reiby.[242] These marriages were a small but significant bridge across the social divisions of the colony.

Marriages also cemented existing relationships among the free and emancipist families. Thomas Wills married Celia Reiby, daughter of his father's partner and sister of his own partner.[243] Marriages between the clerical and missionary families were common, such as Thomas Hassall's marriage to Ann Marsden. His sister Eliza married the Wesleyan missionary William Walker whilst John Fulton and Elizabeth Cartwright, children of colonial chaplains, married.[244]

238. Cunningham, op.cit., p.252.
239. Robinson, op.cit., pp.23-25.
240. D.Ramsay to E.Ramsay, 30 January 1824; D.Ramsay to M.Ramsay, 13 November 1824; Ramsay to his brother, 26 March 1825, Ramsay Papers ML MSS 564/1.
241. K.A.Johnson, "Marriage Licences 1813-1827, Part 2", Descent, 8 (1977), p.146; "P.De Mestre", "S.Lord", ADB, Vols.1 and 2.
242. S.G., 16 September 1824; Johnson, op.cit., p.153; "M.Reiby", ADB, Vol.2.
243. Johnson, op.cit., p.148; "H.Wills", ADB, Vol.2.
244. Johnson, op.cit., p.148,151; "W.Walker", ADB, Vol.2.

New settlers and officials married into the families of established settlers. By the mid-1820s, the Cox, Brooks, Bell, Oxley and Piper families were linked by a number of marriages with each other and with more recent arrivals such as the Nortons and the Mackenzies.[245]

Despite these unions, the community remained fragmented. Quarrels between fathers prohibited friendship among the children, as the sons of William Lawson and Samuel Marsden found, while newcomers were met with haughty indifference from some established settlers.[246] Though free and freed usually co-operated in matters of general benefit, such as the establishment of the Bank of New South Wales or the 1819 petition, there were few regular occasions to maintain this co-operation.[247]

Charitable and religious meetings encouraged some unity while the Sydney Free Grammar School project was praised for the involvement of the wealthiest free and freed citizens.[248] As the population increased, there were conscious efforts to arrange social and recreational activities such as the Sydney Turf Club and the Bathurst Hunt but these functions were limited to the crème of free society.[249] The crowds who watched the pugilist, young Kable, or who gathered to drink in the inns near the market place had little in common with those who attended the St Andrew's Day Ball.[250] Generally, entertainments were confined to friends and relatives and it was unlikely that the

245. Oxley-Norton, Cox-Bell, Cox-Mackenzie, Norton-Mackenzie, Brooks-Mackenzie, Cox-Brooks. Johnson, op.cit., pp.147-148,150,152,154,158.
246. W.Lawson jr to N.Lawson, 14 June 1824, Lawson Papers, Corporation of London Record Office MS 6.2; Cunningham, op.cit., p.240-241.
247. Eagar to Bathurst, 6 November 1822, in Ritchie, Bigge - Written Evidence, pp.219-220,222-225.
248. Register of Committee Attendence 1824-1825, Minutes of the Wesleyan Missionary Society 1825-1839, NLA MS 3289; S.G., 29 September 1825; Australian, 3 November 1825.
249. S.G., 24 March, 18 August 1825; Australian, 4 November 1824.
250. S.G., 11 December 1823, 26 February 1824; Harris, op.cit., pp.5-6.

guests at the ball for Joseph Underwood's daughter's birthday would have been invited to the ball and houseparty of William Cox a few weeks later.[251]

Despite the "repulsive peculiarity" of the colony[252] and the wretchedness of many, newcomers were struck by the orderly nature of the community. The sabbath was observed by the shopkeepers and there was little threat to personal safety in the streets of Sydney, though property was less secure.[253] By the mid-1820s, New South Wales was no longer simply a gaol and Brisbane commented:

> Perhaps..., the time is come when New South Wales ought not to be considered a peculiar Country. The rapidly increased numbers of Freemen by emigration has almost merged the convict character of the Colony. [254]

Yet there was one sector of the colonial population which had been increasingly alienated. The Australian Aborigine attracted little interest or sympathy from the white settlers or the missionaries who concentrated on the Polynesian islanders and the New Zealand Maoris.[255] Brisbane's attitude was typical. He had fought with the West Indian Caribs and Negroes and had a high opinion of the North American Indian scouts but he regarded the Australian Aborigines as the lowest human race in intelligence and civilisation. He thought them treacherous but advocated mild treatment and gifts of clothing, tools and trinkets.[256]

251. S.G., 21 August, 4 September 1823, "An Emigrant", 21 November 1825.
252. John Macarthur junior claimed that whalers would not refit in Sydney because of its immorality. J.Macarthur jr to Wilmot-Horton, 3 August 1825, CO 201/167, f.334.
253. Cunningham, op.cit., pp.36-39; Montgomery, op.cit., p.257.
254. Brisbane to Bathurst, 23 May 1825, HRA i,X1,607.
255. Marsden to Coates, 17 March 1825, ML BT Box 53, p.1476; Montgomery, op.cit., p.260; N.Gunson (ed.), Australian Reminiscences and Papers of L.E.Threlkeld (2 vols., Canberra, 1974), Vol.1, p.8.
256. Brisbane to (Bruce?), - March 1823, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Sir Henry (Makdougall?), 23 March 1823, ibid.; Tasker, op.cit., pp.13-18,28-36; Walker to Watson, 29 November 1821, ML BT Box 52, p.1043; Brisbane to Bathurst, 14 February 1824, HRA i,X1,226.

Macquarie had hoped that the Aborigines would settle into the white community. A school was established for Aboriginal children at Parramatta in 1815 but it made little progress and there were doubts that the children retained their lessons. After sporadic violence in 1816, Macquarie met the tribes once a year in a gesture of conciliation.[257] Bigge reported on the condition of the Aborigines.

> Their numbers have been observed to diminish in the neighbourhood of the settled districts, and as an unfettered range over a large tract of country seems indispensable to their existence, the black population will undergo a gradual diminution in proportion to the advances of the white population....There is...a general disposition amongst the white inhabitants to treat the black natives with kindness and indulgence; but from mistaken motives, and sometimes from reprehensible ones, they supply them with spirits and stimulate them to...shocking outrages upon each other. The appearance of the natives in the towns generally leads to quarrels. 258

Brisbane believed that the colonial and British authorities had a responsibility for the welfare of the Aborigines because they had occupied their land.[259] He was concerned by the widespread physical and moral degradation of the tribes in the Cumberland Plain as a result of their contact with the white man. In an attempt to protect the tribes in the newly opened timber grounds at Port Stephens, Brisbane prohibited the distribution of alcohol but the ship owners protested against the restrictions and the policy was over-ruled in Britain.[260]

257. Macquarie to Bathurst, 8 October 1814, 24 March 1815, HRA i,VIII,367-370, 466-467; Macquarie to Bathurst, 18 March, 8 June 1816, 4 April 1817, HRA i,IX,53-54,139-145,342,362-366; Bigge, Agriculture and Trade, p.73; Gunson, op.cit., p.11.
258. Bigge, Agriculture and Trade, p.83.
259. Walker to Watson, 29 November 1821, ML BT Box 52, p.1043.
260. Goulburn to Piper, 15 April 1823, CSOL 4/3508, p.136; Bathurst to Brisbane, 13 April 1824, HRA i,XI,247-249; Brisbane to Bathurst, 6 November 1824, ibid., pp.413-414.

The colonists were uncertain how to deal with the Aborigines. There were occasional expressions of concern about the wretched and drunken state of those who remained in Sydney.[261] "Philanthropus" wanted itinerant preachers in areas as yet untouched by the Europeans.[262] Other reactions varied from the suggestion of "He Mu" that the Aborigines become chimneysweeps, an occupation particularly suited to their colour and skills[263] to calls that it would be kinder to exterminate them quickly.[264]

There were few disturbances after 1816 until settlement in the Bathurst district increased. Attacks gradually intensified, stock was driven off in 1822, a number of stockmen were killed in 1823 and from 1824 there were frequent reports of unrest west of the mountains, varying from burning grass to more violent acts.[265] Settlers and officials acknowledged that the conflict was a direct result of white expansion. The summer drought had been severe and the sheep and cattle competed with traditional food supplies. The Aborigines retaliated by burning grass, driving off stock, often killing and eating it, and clashed with the stockmen, many of whom were convicts. To these tensions were added the abuse of the Aboriginal women and excessive consumption of alcohol.[266]

William Lawson had been commandant at Bathurst since its

261. S.G., 26 April 1822; Cunningham, op.cit., pp.185-188.
262. "Philanthropus", S.G., 8 January 1824; J.Woolmington (ed.), Aborigines in Colonial Society 1788-1850 (Melbourne, 1974), p.75.
263. "He Mu", S.G., 1 September 1825.
264. S.G., 5, 12, 19 August 1824; A.T.Yarwood, Samuel Marsden. The Great Survivor (Melbourne, 1977), pp.238-241.
265. Bigge, Agriculture and Trade, p.83; T.Salisbury and P.J.Gresser, Windradyne of the Wiradjuri. Martial Law at Bathurst in 1824 (Sydney, 1971), pp.18-19; S.G., 8 January, 19 February 1824.
266. Lawson to Goulburn, 27 November 1823, CSIL Bathurst 4/1798, f.319; Wylde to Goulburn, 22 January 1824, ibid., 4/1899, f.3; Bannister to Wilmot-Horton, 2 July 1824, CO 201/155, f.34; Brisbane to Wilmot-Horton, 3 November 1824, Catton Papers, Derby; J.Atkinson, op.cit., pp.145-146.

establishment and he and fellow magistrate Robert Lowe had good relations with the local tribes.[267] At the end of 1823, his place was taken by James Morisset who reacted to the attacks on the stock by imprisoning a local chief, Windradyne or "Saturday".[268] Open violence broke out in June 1824 when seven white stockmen were killed. Retaliation killings by black and white continued throughout July. As frightened stockmen abandoned the animals, stock owners and magistrates urged the government to take action against this serious attack on the new pastoral wealth of the colony. Additional magistrates were appointed.[269]

In August 1824, five white stockmen appeared in court for killing three Aboriginal women. The testimony of the stockmen and pastoralists indicated widespread fears of a native massacre. William Cox, who had earlier sent his sons into the troubled area to conciliate the tribes near their stock run,[270] now considered that there was open warfare between the Aborigines and the white settlers and violence was justified.[271] The jury's verdict of not guilty was quickly followed by a declaration of martial law west of Mt York as the government sought to prevent a blood-bath by the stock owners.[272] A reward of 500 acres was offered for the capture of the leader, "Saturday".[273]

267. Report of the magistrates on the Aboriginal Disturbances, 16 July 1824, CSIL Bathurst, 4/1799, f.73.
268. Salisbury and Gresser, op.cit., p.19; Field to Marsden, 2 March 1825, Marsden Papers ML A1992.
269. Report of meeting of stockholders, 3 June 1824, CSIL Bathurst 4/1799, f.11; Report of the Magistrates on the Aboriginal Disturbances, 16 July 1824, ibid., f.73; W.Lawson jr to N.Lawson, 14 June 1824, Lawson Papers, Corporation of London Record Office, MS 6.2; Cox to Rankin, 21 July 1824, Rankin Letters ML DOC 1244/b; Forbes to Wilmot-Horton, 29 June 1825, Catton Papers, Derby; S.G., 22 July, 5 August 1824.
270. Cox to Goulburn, 7 December 1823, CSIL 4/1773, f.101.
271. Salisbury and Gresser, op.cit., Appendix A, pp.47-51; S.G., 12 August 1824.
272. S.G., 19 August 1824; Brisbane to Bathurst, 3 November 1824, HRA i,X1, 409-411.
273. Salisbury and Gresser, op.cit., p.33.

Martial law was not revoked until December, though some of the tribes had surrendered in October.[274] "Saturday" eluded capture and arrived at the annual Aboriginal conference at Parramatta in late December with a large number of his tribesmen.[275] Brisbane believed that there had been little bloodshed during martial law, with possibly only fourteen Aborigines killed. The Wesleyan missionary to the Aborigines thought it had been a slaughter with as many as 100 killed.[276] The area of violence was limited and there were no problems with the tribes near the isolated settlement at Wellington Valley where the commandant and his wife treated them with kindness.[277]

The disturbances of 1824 convinced Brisbane that greater efforts must be made to reconcile the Aborigines to European settlement.[278] Official concern was limited to the governor, Wemyss, the deputy commissary-general, and Bannister, the attorney-general.[279] In 1824, the Aboriginal children at the Native Institute had been combined with the Male and Female Orphan School children under Walker and Cartwright.[280] In 1825, as a result of a deputation from the London Missionary Society, Brisbane allocated 10,000 acres at Reid's Mistake, Lake Macquarie for an Aboriginal settlement. The mission was directed by the Reverend Lancelot Threlkeld, a former Pacific

274. Salisbury and Gresser, op.cit., p.34; Brisbane to Bathurst, 3 November, 31 December 1824, HRA i,X1,409,430-432.
275. Brisbane to Bathurst, 31 December 1824, HRA i,X1,431; S.G., 25 November, 16 December 1824. There was no suggestion that Saturday was captured or even surrendered. He accepted the governor's pardon and a truce was declared. Compare Salisbury and Gresser, op.cit., pp.35-36.
276. Brisbane to Bathurst, 3 November, 31 December 1824, HRA i,X1,409,431; Walker to Wesleyan Secretary, 14 September 1824, ML BT Box 53, p.1433; Montgomery, op.cit., pp.276-277; Marsden to Pratt, 7 February 1825, ML BT Box 53, p.1464.
277. S.G., 15 April, 14 October 1824.
278. Brisbane to Bathurst, 31 December 1824, HRA i,X1,431.
279. Threlkeld to Burder, 2 February 1825, London Missionary Society Papers, School of Oriental and African Studies, University of London, Australian Box 2, Folder 3, B.
280. Montgomery, op.cit., p.263; Walker to Watson, 7 February 1825, ML BT Box 53, p.1469.

missionary.[281] Although the project suffered financial and administrative problems, Threlkeld's study of Aboriginal dialects was a major achievement.[282] The Wesleyans continued their mission to the Aborigines. Walker's progress with the Aboriginal children was negligible but his assistant, John Harpur, spent several months in 1825 among the tribes at Wellington Valley, learning their language and customs.[283]

By the mid-1820s, despite an official policy of moderation and education, most colonists accepted that, as white settlement and pastoral activities expanded, conflict with the Aborigines and destruction of their tribes was inevitable.[284]

281. Montgomery, op.cit., pp.269,272-279,286-287; Brisbane to Bathurst, 8 February 1825, HRA i,X1,512-514; Gunson, op.cit., pp.13-15.
282. "L.Threlkeld", ADB, Vol.2; L.Threlkeld, The Orthography and Orthoepy of a Dialect of the Aborigines of New South Wales, Part 1, Newcastle, September 1825, Brisbane Papers ML FM4/1626, Section 15; Woolmington, op.cit., pp.88-90.
283. Woolmington, op.cit., pp.85-87; S.G., 29 September 1825; Gunson, op.cit., p.13,15; Threlkeld, Memoranda, January 1825, ibid., p.84.
284. J.Atkinson, op.cit., p.146; Yarwood, op.cit., p.241.

Chapter 5 - Land Policy.

The quantity, quality and location of land influenced economic development, settlement and land usage and contributed to the social status of its owner.[1] Its distribution was a major responsibility for both the British government and the colonial authorities. Governors in all colonies were instructed to grant land, subject to an annual quit rent, to genuine settlers but, aside from general procedures, the distribution of land was left to the discretion of the local administration.[2]

In New South Wales, the governors were authorized to grant land to former convicts, free settlers and the military to encourage agriculture and permanent settlement and provide employment for convicts. Land was reserved for future villages, religious, educational and government requirements. Settlement was to be compact rather than widespread and a grant was limited to the needs of a settler, with cultivation clauses to ensure that it was developed. Grants varied from thirty acres to little more than 100 acres, depending on the status of the settler, but the governor could give larger grants to deserving settlers.[3]

By 1810, almost 200,000 acres had been granted in New South Wales, mainly in small farms of less than 100 acres. Under Macquarie, a further 230,000 acres were registered but much more was promised or occupied informally. Small farms

1. R.G.Riddell, "A Study of the Land Policy of the Colonial Office, 1763-1855", Canadian Historical Review, 18 (1937), p.385; P.Burroughs, Britain and Australia 1831-1855. A Study in Imperial Relations and Crown Lands Administration (London, 1967), pp.1-2.
2. Riddell, op.cit., pp.385-389.
3. B.H.Fletcher, Landed Enterprise and Penal Society. A History of Farming and Grazing in New South Wales Before 1821 (Sydney, 1976), pp.10-23.

still predominated but there were more larger grants up to 2,000 acres.[4] The majority of grants were in the Cumberland Plain, within forty miles of Sydney. The best farming land was along the banks of the Hawkesbury River, west and north-west of Sydney, but constant flooding prompted Macquarie to encourage settlement in the south-western region of the Cumberland Plain between Liverpool and the Nepean River. Over half of his grants were located there.[5]

From 1817, there was a shortage of land suitable for grants in the Cumberland district.[6] Macquarie planned a gradual expansion west of the mountains and north to the Hunter Valley. Tentative settlements were established in these areas and in 1820 and 1821 Macquarie allowed grants to be selected in the recently explored southern districts of Camden and Argyle.[7]

Macquarie envisaged an agricultural community of former convicts. He encouraged these settlers with small grants of less than 100 acres on land sufficiently fertile to support intensive farming. He was less enthusiastic about immigrant settlers who favoured grazing and required larger grants. He did not hinder their efforts but his lack of encouragement was not appreciated by these men.[8] Brisbane did not have such positive views on land usage. He was interested in experimental agriculture and enthusiastic about the potential of wool and pastoral activities,[9] but he saw land policy as an integral

4. Fletcher, op.cit., pp.121-125, Appendix 4 and 5, pp.232-233.
5. Ibid., p.199, fn.4.
6. Ibid., p.172; J.T.Bigge, Report of the Commissioner of Inquiry on the State of Agriculture and Trade in the Colony of New South Wales (1823 and facsimile edition Adelaide, 1971), p.35.
7. Fletcher, op.cit., pp.168,171-172,195-196; Bigge, Agriculture and Trade, p.35
8. Fletcher, op.cit., pp.129-133.
9. Brisbane to (?), 13 December 1822, Brisbane Papers ML FM4/1626, Section 1.

part of his management of the convict system.[10]

John Oxley had been surveyor-general since 1812 and his work included exploration as well as surveying. Most grants were allocated by his assistant, James Meehan, a former convict, who was also collector of the quit rents due on the older granted land. As the colony expanded, the number of grants and their increasing distance from Sydney strained the resources of the surveyor-general's department. The absence of Oxley and Meehan on fieldwork meant that the paperwork fell into serious arrears. Title to land was not final until the grant had been surveyed and formally registered and delays in survey led to confusion over ownership and boundaries. From 1816, Macquarie periodically refused further grants to allow the surveyors to make up the arrears but the situation on Brisbane's arrival was chaotic.[11]

In July 1821 Macquarie appointed two additional surveyors, William Harper and Henry Dangar. Phillip Cavenagh, who arrived with Brisbane, was appointed an assistant surveyor in March 1822. James McBrien replaced James Meehan when he resigned in July 1822 and Robert Hoddle was employed in September 1823 in response to a request from Oxley for additional field surveyors. A draughtsman was appointed to July 1825.[12] Following Bigge's comments that the surveyor-general was seriously understaffed, the Colonial Office sent out James B. Richards in 1823, Hineage Finch and John Rodd in 1824 and James Ralfe was appointed in 1825.[13]

10. Douglass to Wilmot-Horton, 26 October 1824, CO 201/155, f.414.
11. Bigge, Agriculture and Trade, pp.35-36; Fletcher, op.cit., pp.123-124; "J.Meehan", "J.Oxley", ADB, Vol.2.
12. Darling to Bathurst, 7 October 1826, encl., HRA i,X11,630; S.G., 12 July 1822; Oxley to Goulburn, 3 September 1823, 26 July 1824, SGOL 4/6906, p.75, 262.
13. Bigge, Agriculture and Trade, p.47; Bathurst to Brisbane, 1 October 1823, 21 August 1824, 2 January 1825, HRA i,X1,138,350-351,457. Ralfe was also spelt Ralph.

Once the governor had decided on the extent of a grant, the customary practice was to allow the recipient to select his location within approved areas. Periodically, the surveyor would measure grants in each district.[14] A similar practice was followed under Brisbane. The surveyor-general worked under the orders of the governor and he was notified of the areas to be surveyed through the colonial secretary's office.[15] No grants were surveyed without an order from the colonial secretary specifying the size of the grant.[16]

In February 1822, Oxley was ordered to survey the colony into townships of six square miles with thirty-six subdivisions of one square mile aligned to true north.[17] At the same time, the Newcastle region was opened for settlement and Dangar was sent north to survey the Hunter Valley.[18] In December 1822, the survey of Bathurst was ordered as soon as Oxley could spare a surveyor and McBrien received detailed instructions for this task in late February 1823.[19]

From mid-1823, no more land was available for grants in the Cumberland Plain[20] though a surveyor was kept busy with the arrears of grants and the confused town leases and grants in Sydney and Parramatta.[21] In September 1823, William Harper was instructed to survey the southern county of Argyle.[22] During 1824, the south coast from the Shoalhaven River to Jervis Bay was measured and in 1825 a surveyor was sent to

14. Bigge, Agriculture and Trade, pp.35-36.
15. e.g. Goulburn to Oxley, 16 December 1822, CSOL 4/3507, p.87.
16. S.G., 23 August 1822.
17. Goulburn to Oxley, 18 February 1822, CSOL 4/3504A, p.453; D.N.Jeans, An Historical Geography of New South Wales to 1901 (Sydney, 1972), pp.105-106, 108-110.
18. Goulburn to Oxley, 18 February 1822, CSOL 4/3504A, p.453.
19. Goulburn to Oxley, 16 December 1822, CSOL 4/3507, p.87; Oxley to McBrien, 27 February 1823, SGOL 4/6906, p.16.
20. Oxley to Cavenagh, 26 September 1823, SGOL 4/6906, p.86.
21. Oxley to Goulburn, 3 September 1823, ibid., p.75.
22. Oxley to Harper, 26 September 1823, ibid., p.89.

Broken Bay, north of Sydney.[23] This programme kept most of the surveyors in the field and in 1823 the colonial government awarded a cash gratuity for each section completely surveyed with map and soil samples.[24] Nevertheless, by 1825 there was no complete survey of the known areas of the colony and many grants had not been allocated.[25]

The activity of the surveyors allowed a more orderly distribution of land consistent with Bigge's recommendation of survey before grant.[26] Settlers were informed that land would not be granted in the new districts until it had been surveyed.[27] New settlers were encouraged to select their grants in areas where the surveyors were at work so the settlement of Bathurst and Newcastle was more orderly than in the older districts.[28] If a settler selected land in an isolated area, it would not be surveyed before the region was scheduled for survey.[29]

Oxley had little influence on Macquarie's distribution of land and grants were frequently made without reference to him.[30] Macquarie was pleased with his exploration work but regarded him as an intriguing and discontented man.[31] During Bigge's investigations, Oxley's opinions were seriously considered by the commissioner; however, when the new governor arrived, Oxley's views were not consulted. The new land measures which Brisbane introduced in the early months of his

23. Oxley to McBrien, 27 August 1824, SGOL 4/6906, p.285; Oxley to Richards, 16 February 1825, ibid., p.360.
24. Goulburn to Oxley, 10 February 1823, Surveyor-General - Letters Received from the Colonial Secretary 1822-1825, 2/1432 (n.p.).
25. T.M.Perry, Australia's First Frontier (Melbourne, 1963), p.45.
26. Bigge, Agriculture and Trade, p.49.
27. R.Townson, Memorial, 9 June 1823, minute, CSIL Memorials re:Land 4/1834B.
28. Brisbane to Bathurst, 3 September 1823, 31 July 1825, HRA i,X1,122,697; Perry, op.cit., p.66.
29. Oxley to Brooks, 28 March 1825, SGOL 4/6906, p.398.
30. J.T.Bigge, Report of the Commissioner of Inquiry into the State of the Colony of New South Wales (1822 and facsimile edition Adelaide, 1966), p.172.
31. Macquarie to Bathurst, 1, 13 December 1817, HRA i,1X,501,726-727.

government were formulated without reference to the surveyor-general, who strongly disapproved of many of their details.[32]

Oxley's personal relations with Brisbane and Goulburn were at their worst in 1822. He was an outspoken opponent of Brisbane's economic policy and the dismissal of the Parramatta magistrates over the Douglass controversy.[33] The fact that he was persona non grata was shown in his exclusion from the governor's party which inspected Bathurst in September 1822.[34] Relations between the governor and the surveyor-general deteriorated further after a disagreement about the longitude of Bathurst.[35] In late 1822, the surveyor-general was accused of using his official position to favour his friends. Oxley vigorously denied the imputation and was annoyed when Brisbane accepted his explanation but failed to make any statement to restore confidence in his impartiality.[36]

Following this unpromising start, Oxley maintained a low profile, concerning himself strictly with his official duties. By April 1823, he believed that his opinion was heeded more often[37] but grants were still given without consulting him and even against his specific recommendations.[38] At the end of 1823, Brisbane was excited by Oxley's discovery and naming of the Brisbane River at Moreton Bay. Relations between them improved in 1824 and 1825 and Brisbane accepted Oxley's recommendations on additional grants and land sales.[39]

32. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No. 44, pp.23-27; Bigge, Agriculture and Trade, pp.48-49.
33. See Chapters 6 and 7.
34. C.Macarthur to King, 20 November 1822, King Papers ML A1976; Oxley to King, 31 January 1823, ibid.
35. Oxley to King, 31 January 1823, ibid.
36. Ibid.; McHenry to Brisbane, 30 September 1822, ibid.; Oxley to Goulburn, 4 November 1822, ibid.
37. Oxley to King, 20 April 1823, ibid.
38. Berry to Wollstonecraft, 31 October 1823, Berry Papers ML UCMSS 315/11.
39. See below.

In 1825, the Colonial Office ordered that all land correspondence should be directed to the surveyor-general[40] rather than to the colonial secretary. This administrative reorganization did not increase the surveyor-general's influence on policy decisions.

> I have to observe that the Surveyor General has nothing to do with the making of Grants. He is only required to survey the land intended to be Granted, and to point out the boundary to the Grantee, which is commonly called giving possession. The tenures upon which the Grants are made, are exclusively in the Department of the Colonial Secretary. 41

Macquarie was concerned that owing to the arrears in the surveyor-general's office many of the grants which he had promised would not be surveyed before he left. He asked Brisbane to confirm these grants but since Macquarie could not state their extent Brisbane's reply was cautious.[42] When Brisbane realized the liberality and informality of Macquarie's promises, totalling 340,000 acres, he applied immediate restrictions because he doubted that few would develop this land.[43]

Brisbane found that the demand for land from all sectors of the community was insatiable. The constant land hunger was part of the increasing interest among settlers, both old and new, in pastoral activities. The grazing occupancy on unimproved land was calculated at 300 sheep to 1,000 acres and the number of stock doubled every three years.[44] Brisbane complained that "Not a Cow calves...but her owner applies for

40. Bathurst to Brisbane, 1 January 1825, encl.2, HRA i,X1,455; S.G., 26 May 1825.
41. Brisbane to Scott, 30 July 1823, HRA i,X1,715.
42. Macquarie to Brisbane, 1 February 1822, Macquarie/Brisbane Correspondence CS-SB 2/8130; Brisbane to Macquarie, 2 February 1822, ibid.
43. Brisbane to Bathurst, 10 April 1822, HRA i,X,630.
44. J.Atkinson, An Account of the State of Agriculture and Grazing in New South Wales (1826 and facsimile edition Sydney, 1975), p.80. See Chapter 6 for an account of the expansion of pastoralism.

an additional grant".[45] Much of the governor's time was spent in examining applications for land. Those who received grants were ungrateful, believing them insufficient, and those who were refused became hostile to the local administration. In Brisbane's view, a policy was needed to dull "the keeness of this appetite for land".[46] He feared that much of the land was acquired for speculation and was angered that the government's liberality was abused.[47] The government could not recover land that had not fulfilled the cultivation and clearance clauses designed to prevent speculation because of the limited judicial facilities in the colony.[48]

The specific problem of Macquarie's promises, combined with Brisbane's more general objections to land trafficking and his overall concern to distribute convicts among the settlers, resulted in a major change in land policy. A condition was inserted into each grant stipulating that for every 100 acres granted, the settler must maintain one convict free of expense to the government for the length of his sentence.[49]

The new policy emerged gradually. From the begining of December 1821, applicants for land were informed by the colonial secretary that a grant would be made in proportion to their means of cultivating it. This would be assessed from a statement of the number of convicts that they could support permanently off the government stores.[50] Brisbane mentioned

45. Brisbane to Bathurst, 29 November 1823, HRA i,X1,182.
46. Ibid., p.181.
47. Brisbane to Bruce, 18 March 1822, Brisbane Papers ML FM4/1626, Section 1.
48. Brisbane to Bathurst, 29 November 1823, HRA i,X1,184.
49. Form of Deed, Brisbane to Bathurst, 10 April 1822, encl., HRA i,X,631-632. For aspects of this policy relating to convict management, see Chapter 3.
50. Goulburn to Ralph, 5 December 1821, CSOL 4/3504A, p.126; Goulburn to Campbell, 17 December 1821, ibid., p.155.

his scheme to the Colonial Office only as a restriction on Macquarie's prolific grants[51] but he intended to apply it to all grants.[52]

In April 1822, Hannibal Macarthur was informed that Macquarie's promise of an additional grant would be confirmed because Macarthur already supported a sufficient number of convicts.[53] Thomas Icely, a merchant and settler, was told that Macquarie's promised grant had been cancelled but he could apply to the new governor for another by submitting the number of convicts that he supported off the stores.[54] The proportion of convicts to land had not been stated but applications from new settlers in January 1822 indicated that it was known.[55] Though Brisbane had fixed the proportion at one convict per 100 acres before March 1822, it was not fully applied.[56] Grants to new settlers in March and April 1822 followed the scale that Macquarie had announced in 1821 of four convicts for 1,000 acres.[57] Brisbane's proportion was an increase of six men on a grant of 1,000 acres and of fourteen men on a 2,000 acre grant.

There was no public announcement of the new policy until July 1822 when the first forty grants were ready. The grantee required a certificate from the colonial secretary stating that he had signed bonds for the specified number of convicts.[58] The bond for £100 guaranteed that the settler would support and

51. Brisbane to Bathurst, 10 April 1822, HRA i,X,630-632.
52. Brisbane to Bruce, 18 March 1822, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Bathurst, 29 November 1823, HRA i,X1,179.
53. Goulburn to H.Macarthur, 10 April 1822, CSOL 4/3505, p.138.
54. Goulburn to Icely, 24 April 1822, ibid., p.191.
55. D.Reid, Memorial, 16 January 1822, CSIL Memorials re:Land 4/1831; J.Webber, Memorial, 31 January 1822, ibid., 4/1832.
56. Brisbane to Bruce, 18 March 1822, Brisbane Papers ML FM4/1626, Section 1.
57. Goulburn to Acres, 28 March 1822, CSOL 4/3505, p.83; Goulburn to Lang, 20 April 1822, ibid., p.184; Macquarie to Bathurst, 28 November 1821, encl., HRA i,X,572.
58. S.G., 12 July 1822.

supervise the convicts on the particular grant.[59] Oxley was repeatedly instructed that no grant over ninety-nine acres was to be issued unless the settler had signed the bond.[60]

The proportion of convicts to land was based on the comments of established settlers who calculated that at least twenty men were needed to work 2,000 acres.[61] Bigge had considered a similar principle and in his first report suggested that grants be proportional to the number of convicts that a settler was willing to employ and the extent of his stock.[62] In his third report, he recommended that grazing land should be available for settlers if they supported three convicts for each 200 acres.[63] Brisbane introduced his scheme before Bigge had released his reports so it was not based directly on Bigge's suggestions, as John Macarthur believed.[64] Nevertheless, the similarity suggests that Brisbane drew his idea from the colonists' accounts of Bigge's investigations. Later, Brisbane used Bigge's reports to justify his system.[65]

Few approved of the new policy.[66] Since it was in effect a tax on land, Brisbane acknowledged that opposition was inevitable. To make it more acceptable, newly arrived settlers were allowed a cow from the government herds for each convict attached to their grant.[67]

59. Form of Bond, Darling to Bathurst, 21 December 1826, encl., HRA i,XII, 793-794.
60. e.g. Goulburn to Oxley, 11 May 1824, CSOL 4/3511, p.210.
61. Brisbane to Craufurd, 18 May, 14 SEptember 1822, Brisbane Papers PRO PMG1/1.
62. Bigge, New South Wales, p.161.
63. Bigge, Agriculture and Trade, p.49.
64. J.Macarthur to J.Macarthur jr, 29 January 1823, Macarthur Papers ML A2962.
65. Brisbane to (?), 13 December 1822, Brisbane Papers ML FM4/1626, Section 1.
66. Compare A.G.L.Shaw, Convicts and the Colonies (Melbourne, 1977), p.191, fn.2. S.H.Roberts, History of Australian Land Settlement (1924 and Melbourne, 1968), p.38,41,fn.22, thought it a good policy that worked well but acknowledged its unpopularity.
67. S.G., 12 July 1822; Brisbane to Craufurd, 14 September 1822, Brisbane Papers PRO PMG1/1.

Established settlers objected that the convicts were attached to a particular grant and could not be employed elsewhere. This was designed to obstruct illegal sales of grants by burdening the speculator with the support of convicts but it meant that established settlers could not make optimum use of the additional convict labour. John Macarthur, Sir John Jamison and John Oxley feared that the convicts would refuse to work it they were given tasks away from their particular grant and a convict might even prosecute his master in such instances, causing him to forfeit his grant. The settler was obliged to accept the convicts allocated to him, even if they were cripples, and could not return them if they refused to work.[68] Macarthur rejected Brisbane's assurances that the bonds were a formality and would not be enforced.[69] New settlers would have problems in finding sureties for their bonds and Oxley predicted endless disputes when the grant was divided among heirs, or if it was seized for civil debts, because the convicts would have to be included as "livestock".[70]

Although the colonial government abolished the old wage system for bonded convicts, the settler was required to pay 18s per year for each convict to cover religious, medical and police facilities[71] as well as feed, clothe and shelter him. These expenses were estimated at £14-£25 per year per man.[72] The established settlers doubted that convicts would work without the traditional wage or luxury items, especially if

68. J.Macarthur to J.Macarthur jr, 29 January 1823, Macarthur Papers ML A2962; Jamison to Bathurst, 2 September 1822, CO 201/111, f.365 ff.; Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.23.
69. J.Macarthur to J.Macarthur jr, 29 January 1823, Macarthur Papers ML A2962.
70. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, pp.23-24.
71. S.G., 12 July 1822.
72. See Chapter 3.

other convicts on the property were entitled to these benefits. Settlers would have to pay wages to the additional convicts and the drain on their capital would be ruinous.[73]

Settlers both old and new complained of the affect on land usage. J.P.Webber, son a Major-General Webber, was one recent immigrant who objected to the new system. Under the old regulations, his capital entitled him to a grant of 2,000 acres on which he intended to breed fine-wool sheep. He now found that instead of receiving six convicts, he was expected to support twenty convicts. Their support for one year would absorb one-quarter of his income with little return. Since he did not need them for his pastoral activities, he would have to employ them in agriculture, for which there was a limited market. Webber reduced his grant to 1,500 acres which he selected in the Hunter Valley.[74]

Vickers Jacob, a military settler and adventurer from India, was also dissatisfied and he complained to the Colonial Office:

> the tendency of the late regulations is to clog with unnecessary and superfluous expence those lands best suited for this purpose (raising wool), and to leave free and unencumbered every part which can with the Smallest hope of profit be applied to the raising of grain...To maintain a servant for every 100 Acres would at £30 p.Ann. each be in the first year a sinking of nearly one third of my capital. 75

Sir John Jamison agreed that the new scheme would force settlers into agriculture on land that was not worth cultivating

73. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.25.
74. Webber to Brisbane, n.d.(1822?), CSIL Memorials re:Land 4/1832; Webber to Goulburn, 17 January 1822, minute, ibid.; Webber to Goulburn, 31 January 1822, ibid.
75. Jacob to Bathurst, 7 September 1822, HRA i,X1,53-54.

and would discourage immigrants who had planned to invest in grazing.[76]

Brisbane hoped that his new policy would not only distribute convicts, ensure that the proprietors lived on their estates to supervise them and prevent land speculation but would assess the liquidity of a settler's capital. He assumed that a settler would be less likely to inflate his capital if he knew that he had to support the convicts attached to his grant. A new settler was allowed rations for his family and convicts for six months, as well as a cow for each convict. Sufficient land could be cultivated by these men to provide their food within that period. A small outlay in stock, such as pigs, would provide meat and leather. Flax could be grown for cloth and straw could be used to make hats. With little effort beyond the supervision of his convicts, the settler would quickly be self-sufficient, leaving the bulk of his capital free to invest in fine woolled sheep for export.[77] Yet this optimistic view must surely have been echoed by the new settlers and few would have been as prudent as Webber in reducing his grant to match the new strains on his capital.

The merchants Alexander Berry and Edward Wollstonecraft were the only settlers to accept the new scheme on a large scale. They requested a grant of 10,000 acres at Shoalhaven in return for supporting 100 convicts.[78] Their acquaintances predicted that they would be ruined by the size of their enterprise.[79] Berry agreed that the conditions were hard but

76. Minutes of a conversation between Brisbane and Jamison, 20 July 1822, CSIL 4/1761, f.78 ff.
77. Brisbane to Bathurst, 29 November 1823, HRA i,X1,180.
78. Berry and Wollstonecraft, Memorial, 19 February 1822, List of Memorials Received in 1822, CSIL Memorials re:Land 4/1828; Goulburn to Berry and Wollstonecraft, 5 March 1822, CSOL 4/3504A, p.522.
79. "Shoalhaven", Notes c.1826?, Berry Papers ML UCMSS 315/5.

he accepted them because he agreed with Brisbane's theory of political economy.[80] Berry and Wollstonecraft thought the scheme "judicious and expedient" because it provided a specific assessment of a settler's capital. It was a valid attempt to reduce public expenditure.[81]

The new policy was accompanied by a stricter watch to ensure that grants were not sold illegally. In October 1822, purchasers of land granted by Macquarie were warned that the land could be resumed.[82] Settlers who sold a grant illegally were not allowed another[83] but in 1824 Brisbane admitted that he had been unable to stop illegal sales.[84] The five year non-alienation clause was often violated but, as the judge-advocate had registered the transfers without protest, the colonial government could do little to enforce non-alienation.[85]

The success of Brisbane's policy in reducing profuse and speculative grants was limited. By November 1823, Brisbane estimated that he had promised 163,000 acres with conditions for bonded convicts, 107 grants had been completed and 305 bonds prepared. Brisbane claimed that this area would have been greater but for the new regulations.[86] Oxley was sceptical:

> (If) It is intended to prevent profuse and improper grants by making them rather expensive presents, the object has entirely failed for I do not perceive one acre the less either given or taken. The holders resting satisfied that Government will not, nor can, resume land on which capital has been expended under their direct sanction. 87

80. "Shoalhaven and Dr Lang", Notes, n.d., Berry Papers ML UCMSS 315/4.
81. Berry and Wollstonecraft to Brisbane, 30 July 1825, Copies of Letters Sent and Received in the Colony 1824-1827, CS 4/5782, p.348.
82. Goulburn to Campbell, 8 October 1822, CSOL 4/3506, p.342.
83. Minute, G.Suttor jr, Memorial, n.d. (1822?), CSIL Memorials re:Land 4/1832.
84. Brisbane to Bruce, 30 January 1824, Brisbane Papers ML FM4/1626, Section 1.
85. Goulburn to Ovens, 22 February 1825, CSOL 4/3513, p.469.
86. Brisbane to Bathurst, 29 November 1823, HRA i,X1,179-181.
87. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.26.

Oxley believed that settlers occupied their land without completing the bonds and finalizing their grants. They preferred to leave their affairs unsettled in the hope of changed regulations. Furthermore, the new system encouraged clandestine sales because grants of less than 100 acres were exempt from the new scheme.[88]

The situation was complicated by a shortage of convicts. The attached convicts were distributed gradually[89] but by 1824, settlers who wanted convicts to complete their quota and finalize their grants found that they were unable to obtain sufficient convicts.[90] The shortage of convicts made the scheme untenable by the end of 1824.[91] In 1826, Darling was obliged to honour Brisbane's grants without insisting on the number of convicts because there were not enough convicts to meet the conditions.[92]

The register of bonds for convicts attached to grants listed only 104 bonds completed between September 1822 and August 1825. In every case, the grant to which the bond referred had been formally registered before the bonds were completed. The grants for the 1825 bonds had been registered in June 1823 and some of the grants for the 1824 bonds had been registered as early as July 1822.[93] Oxley was mistaken and some settlers did not find the bonds a hindrance to acquiring full legal title to their land.[94] They probably

88. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, pp.25-27.
89. Brisbane to Bathurst, 29 November 1823, HRA i,X1,180.
90. Atkinson to Goulburn, 10 June 1824, CSIL 4/1779, f.138.
91. Busby to Kelman, 13 September 1824, Kelman/Busby Papers ML MSS 1183.
92. Darling to Bathurst, 21 December 1826, HRA i,X11,792.
93. Certificates of Bonds for Maintaining Convicts 1822-1825, AONSW 2/1626.1; Register of Land Grants, Vols.10-14, Registrar-General's Department, Sydney.
94. Busby to Kelman, 13 September 1824, Kelman/Busby Papers ML MSS 1183.

completed the bonds when they received the requisite number of convicts. Most of the bonds, sixty-one of 104, were signed in the last year of Brisbane's government.

These completed bonds represented only a small proportion of those who received land under the condition of maintaining convicts. Of 274 grants registered by Brisbane with this condition, only thirty-eight per cent had completed the bonds.[95] Furthermore, only about one-third of the grants promised by Brisbane with this condition were actually registered, so the proportion of bonds for the land alienated was even lower.[96]

The Colonial Office referred Brisbane's scheme to Bigge for his comments. Bigge had probably received Oxley's detailed criticism and his reference to the effect on new settlers indicated that he was aware that the policy applied to all grants, unlike the Colonial Office who believed from Brisbane's despatch of April 1822 that it applied only to Macquarie's promises.[97] Bigge repeated Oxley's criticisms that the policy was a burden for new settlers. He opposed the restriction of convicts to a particular grant and pointed out that the uneven quality of the land and the unreliable work of the convicts made the scheme unfair. Grants should be proportionate to the number of convicts but Brisbane had made it a restriction rather than an encouragement.[98]

Bigge's comments were reinforced by criticism from settlers

95. Certificates of Bonds for Maintaining Convicts 1822-1825, AONSW 2/1626.1; Register of Land Grants, Vols.10-14, Registrar-General's Department, Sydney.
96. See below.
97. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, pp.23-27; Bigge to Wilmot-Horton, 10 February 1823, ML BT Box 28, p.7171; Minute, Forbes to Wilmot-Horton, 6 March 1823, CO 201/146, f.430.
98. Bigge to Wilmot-Horton, 10 February 1823, ML BT Box 28, pp.7171-7174.

such as Jamison and Jacobs.[99] In May 1823, Bathurst informed Brisbane that whilst he understood the attraction of a scheme which would save the government £68,000 per year,[100] he doubted that it would work. He pointed out the disadvantages mentioned by Bigge and proposed an alternative condition of a quit rent proportional to the quality of the land.[101]

Brisbane defended his scheme in November 1823 and asked Bathurst to reconsider his objections because of the necessity for "Some efficacious check" to the demand for land and its success in distributing convicts. He argued that the worst opposition had passed and the scheme worked well at Bathurst and Newcastle. Brisbane did not comment on the quit rent scheme although he noted that Bathurst accepted that employment of convicts was a measure of a settler's improvement of his land.[102]

The quit rent scheme implied a return to the old clearing and cultivation conditions to assess a settler's use of his land.[103] Brisbane urged that these conditions should be more equitable, based on a fixed proportion rather than the number of acres cultivated. The type of cultivation should be considered and the clearing conditions should be balanced against the terrain. Brisbane explained that one of the reasons for introducing his scheme was the impossibility of enforcing the old clearing and cultivation clauses.[104]

Bathurst had proposed quit rents calculated on 1.5 per

99. Jamison to Bathurst, 2 September 1822, CO 201/111, f.365 ff.; Jacobs to Bathurst, 7 September 1822, HRA i,X1,53-54.
100. Calculated on the support of 3,400 convicts who would be attached to the 340,000 acres promised by Macquarie at £ 20 per year per man.
101. Bathurst to Brisbane, 30 May 1823, HRA i,X1,83-85.
102. Brisbane to Bathurst, 29 November 1823, ibid., pp.179-184.
103. Bathurst to Brisbane, 31 May 1823, ibid., pp.87-88.
104. Brisbane to Bathurst, 29 November 1823, ibid., pp.183-184.

cent of the estimated value of the land, payable after five years. This annual perpetual quit rent could be redeemed by a payment equivalent to twenty years' quit rents. Land was to be divided into three valuations from 5s per acre for inferior land, 7s 6d for moderate land and 10s for good land.[105] Bathurst's proposal ignored Bigge's most recent report which suggested that land sales would be a better source of revenue than increased quit rents.[106] Quit rent conditions had always been included in colonial grants but they had not been collected since 1809.[107] Brisbane had anticipated Bigge's comments and had abolished the post of collector of quit rents, held by the deputy surveyor James Meehan, in March 1822,[108] though he retained quit rent clauses in grants with convicts attached.[109] Bathurst's new quit rents were a massive increase, ranging from 3s 9d to 7s 6d for a fifty acre portion compared with the old quit rent of 1s per fifty acres.[110]

Brisbane proclaimed the new quit rents in November 1823 but did not include the variations for different qualities. The rate of 3s per twenty acres was calculated on the highest valuation of 10s per acre. Quit rents were to be paid after six years on first grants or immediately on additional grants, though in fact no grants were issued by Brisbane with these conditions.[111] The announcement did not mention bonded convicts and the new quit rent was an additional not alternative condition.

105. Bathurst to Brisbane, 30, 31 May 1823, HRA i,X1,83-88.
106. Bigge, Agriculture and Trade, p.38.
107. Ibid., p.91.
108. Ibid., p.47; S.G., 29 March 1822.
109. Form of Deed, Brisbane to Bathurst, 10 April 1822, encl., HRA i,X,631-632.
110. Bigge, Agriculture and Trade, p.38.
111. S.G., 6 November 1823; Oxley to Darling, 26 January 1826, HRA i,X11,381.

The absence of the differential quit rent reflected the attitude that the low value of most colonial land made such differentiation unnecessary.[112] The gradation of land into three qualities would have added to the work of the surveyor-general's department, already struggling to keep pace with land distribution.

The omission of the differential quit rent, the persistence of convicts attached to grants and Brisbane's general interpretation of Bathurst's despatches of May 1823 caused uneasiness at the Colonial Office. Brisbane was not informed directly of this displeasure. In a serious revelation of lack of confidence in the governor, Wilmot-Horton wrote a long private letter to the colonial secretary, pointing out that Brisbane had "entirely misunderstood" Bathurst's despatch on quit rents. He explained that the land valuations were not actual valuations but different qualities and their omission was unfair. A differential quit rent system would encourage useful occupation of land and no harm was done if the system failed because the land would be forfeit after five years if no improvements had been made. Wilmot-Horton was concerned that Brisbane did not encourage men with capital to invest in landed activities.[113]

Brisbane received no official answer to his despatch of November 1823 and no further instructions on land policy arrived until mid-1825. Presumably, Brisbane was aware of Wilmot-Horton's private letter to Goulburn. In late 1824, the governor

112. Douglass to Wilmot-Horton, 12 October 1824, CO 201/155, f.403.
113. Wilmot-Horton to Goulburn, 7 July 1824, ibid., ff.499-507.

reviewed his instructions on land policy[114] and gradually dismantled his policy of attaching convicts to land grants.

New regulations, dated 29 December 1824, were released in late March 1825.[115] Although there was still no valuation and the quit rent remained at the maximum level, the order was much fuller than its predecessor of November 1823. In addition to the quit rent, three alternative conditions were inserted. Within five years, the grantee had to clear and cultivate a fixed proportion of his land or maintain a certain number of convicts or erect buildings or other permanent improvements to a given value to show that he was a genuine settler. The land could not be sold within five years and the conditions would be assessed by two people, one representing the Crown and one the grantee.

The clearance requirements were the same as those imposed by Macquarie on grants from thirty to 800 acres, requiring ten to sixty-five acres cleared within five years. For grants over 1,000 acres, the area was slightly larger, 120 acres cleared on a 2,000 acre grant instead of 100 acres.[116] The number of convicts was similar to Macquarie's 1821 regulations, from three convicts on a thirty acre grant to thirty convicts over five years on a 2,000 acre grant. The colonial press criticized Brisbane for allowing convict servants to settlers with less than 100 acres and it was against Bigge's recommendations.[117] The value of permanent improvements varied from £50 on the smallest grant to £600 on the largest. The new conditions still

114. Goulburn to Brisbane, 1 November 1824, CSOL 4/3512, p.658.
115. S.G., 24 March 1825.
116. Macquarie to Liverpool, 17 November 1812, encl., HRA i,V11,626.
117. Australian, 24 March 1825; Bigge, New South Wales, p.157.

required more improvements on a small grant than on a large grant. Criticism that the cultivation and permanent improvement clauses restricted land usage[118] led to modifications in November 1825 to allow fencing and clearing as proof of genuine occupation.[119]

In early May 1825, Brisbane repealed the condition of convicts attached to grants promised by Macquarie. The governor's proclamation acknowledged that it had caused "unforeseen inconvenience" and offered to execute new grants with the former cultivation clauses and the old low quit rent.[120] One of those to take advantage of this offer was Edward Wollstonecraft whose grant of 524 acres , registered on 30 June 1823, was re-executed with the new conditions on 30 June 1825.[121]

Two weeks after Brisbane abandoned his land policy, comprehensive new regulations for grants and land sales were published. These regulations were the result of the "mature" deliberations" of the Colonial Office on Brisbane's despatch of November 1823.[122] The new regulations ordered a survey of New South Wales and Van Diemen's Land. Initially, the survey was confined to the settled areas which were to be divided into counties, hundreds and parishes. Land in each parish was to be valued and areas reserved for roads, villages, churches and schools. The Church and School Corporation was created as an integral part of the land regulations and one-seventh of the value and extent of land in each county was to be used for the

118. Australian, 31 March 1825.
119. Australian, 17 November 1825; S.G., 17 November 1825.
120. Australian, 5 May 1825; S.G., 5 May 1825.
121. Register of Land Grants, Vols.14,10, Registrar-General's Department, Sydney.
122. Bathurst to Brisbane, 1 January 1825, HRA i,X1,434-444; S.G., 26 May 1825.

support of the established church and the education of the youth of the colony.[123]

Settlers were divided into those who were able to purchase land and those who relied on the Crown for grants. Unreserved land was available for distribution and land sales were given priority. Immediately after valuation, land was to be offered for sale to the highest bidder. A ten per cent discount was allowed for prompt payment and the purchaser would also receive a cash refund if, during ten years, he supported convicts whose expense was equivalent to ten times the value of the land, in which case he would be credited with ten per cent of their estimated cost. Land would be sold in lots of 1,920 acres but no-one could purchase more than 9,600 acres.[124]

Land not purchased could be distributed by grant. The applicant for granted land had to invest capital equivalent to one-quarter of the value of the land within seven years. A quit rent, payable after seven years on first grants, was calculated at five per cent of the average value of land in the parish and was redeemable within twenty-five years by paying the equivalent of twenty years' rents. In addition, the grantee would be credited with ten per cent of the cost of each convict that he had maintained for one year and this would be deducted from the quit rent redemption payment. Grants were limited from 320 to 2,560 acres.[125]

The 1825 land regulations were an attempt by the Colonial Office to provide a systematic policy in place of the limited instructions in the governor's commission and spasmodic

123. Bathurst to Brisbane, 1 January 1825, HRA i,X1,434-439.
124. Ibid., pp.440-442.
125. Ibid., pp.442-443.

despatches on particular aspects of land distribution. The Colonial Office was interested in a general policy applicable to a number of colonies. An undated minute by Wilmot-Horton on New South Wales land policy had raised this point with the variable quit rents[126] and the new colonial secretary for New South Wales, Alexander Macleay, was given instructions on land administration in Canada.[127] Copies of the 1825 New South Wales land regulations were sent to the governors in British North America for their opinions in 1826 and 1827.[128]

Regardless of the wider imperial ambitions for the new policy, the 1825 regulations were drawn to meet specific objections to Brisbane's land policy. In an earlier draft, dated 3 November 1824, detailed instructions were considered necessary because of Brisbane's "misconception" of policies expressed in less dogmatic terms.[129] The delay of two months between the draft and the final despatch was probably caused by arrangements for Brisbane's recall and the selection of the new colonial administration.

In the six months between the arrival of Brisbane's despatch of November 1823 in mid-1824 and January 1825 when the new regulations were sent, Wilmot-Horton had seriously considered Brisbane's land policy. The concern which prompted his private letter to Goulburn in July 1824 was reinforced by a series of letters and discussions with Dr H.G.Douglass in the autumn of 1824. Douglass had arrived in England as the accredited representative of Brisbane's government to reply to

126. Minute, n.d. (July-December 1824?), CO 201/155, ff.509-510.
127. Stephen to Wilmot-Horton, 27 March 1825, HRA iv,1,601.
128. Riddell, op.cit., p.390.
129. Draft, Bathurst to Brisbane, 3 November 1824, HRA i,X1,925-930.

criticism and to explain Brisbane's integrated convict and land policies.[130]

Douglass had few qualifications for such a mission. Although he was a close friend of the colonial secretary, his official responsibilities were medical duties and there was no suggestion that he had been involved, either directly or indirectly, in land policy. There is no evidence that he had any greater knowledge than the average free settler with a large grant and his short residence of three years in the colony did not qualify him as an experienced observer.[131] As Brisbane's nominated spokesman, Douglass's views were accepted at the Colonial Office as accurate representations of Brisbane's opinions and motives.

In his discussions with Wilmot-Horton, James Stephen and Archdeacon Scott and in his correspondence with Wilmot-Horton, Douglass ignored the prevailing attitudes to land policy and usage in New South Wales. Bigge's reports had emphasized the potential of sheep grazing and the need for settlers with capital. The Colonial Office had endorsed this view and the establishment of the Australian Agricultural Company in 1824 to raise fine wool indicated its wide acceptance in British parliamentary and financial circles.[132] Brisbane had recognized the potential of wool and had explained how his land policy would encourage sheep grazing[133] yet Douglass's defence of convicts bonded to land grants was based solely on agriculture and penal management.

Dismissing grazing as a lazy occupation, Douglass emphasized

130. Brisbane to Wilmot-Horton, 21 February (1824), HRA i,X,624, HRA i,X1,231; Wilmot-Horton to Douglass, 25 September 1824, CO 202/12, pp.319-320.
131. H.Goulburn to Wilmot-Horton, 15 August 1824, Catton Papers, Derby; Forbes to Wilmot-Horton, 29 June 1825, ibid. See Chapter 7.
132. See Chapter 6.
133. Brisbane to Bathurst, 29 November 1823, HRA i,X1,180.

export crops such as tobacco and flax raised by the additional convict labour attached to the grant. Brisbane's interest in these crops was strictly experimental to assess the agricultural potential of the colony.[134] Douglass asserted that the intention of the settler to reside on his property, cultivate his land and supervise his convict servants was more important than capital to develop his enterprises. He argued that with the reduction in food prices, a settler required only half the capital to maintain himself and his convicts than had been necessary under Macquarie.[135] This attitude to capital was contrary to the policy of the Colonial Office in selecting potential settlers and was not supported by events in the colony.[136]

Wilmot-Horton rejected Douglass's explanation. The distribution of land and labour was unequal. The bonds were useless if the settler failed and he could see no difference between attached and assigned convicts since both would be returned to government if the settler could not maintain them. The government should not enforce a particular form of land use. "Industry and capital" should find their own levels and if it was more profitable for a settler to graze stock and live in town, he should do so and employ a resident manager. That agriculture employed more men than grazing was irrelevant because fine wool was a known export article. Wilmot-Horton was not convinced that agricultural products could be raised cheaply with convict labour and he saw no reason for Britain to subsidize an expensive agricultural industry in New South

134. Brisbane to (?), 29 May 1824, Brisbane Papers ML FM4/1626, Section 1.
135. Douglass to Wilmot-Horton, 12, 26 October 1824, CO 201/155, f.404,414.
136. See Chapter 4 and below.

Wales when it could acquire tobacco and other produce more cheaply elsewhere. Above all, the settler was forced to take twice as many convicts as he needed or could afford to support.[137]

> I think nothing can be more erroneous in principle, or turn out more fallacious in practice, or more contrary to all experience and to every sound principle. [138]

Wilmot-Horton's comments were personal rather than official but there was an unmistakable similarity between the 1825 land regulations and his criticisms of Brisbane's land policy. Although Wilmot-Horton's main critique was dated 16 November 1824, after the draft of the land regulations on 3 November, he had prepared a draft of his arguments by late October.[139] Bathurst's comment that the ready availability of convict labour had encouraged settlers without capital was an echo of Wilmot-Horton's earlier criticisms.[140] The preference for land sales in the 1825 regulations emphasized that the possession of, or access to, capital was to be the "essential qualification of every Agricultural Settler in New South Wales".[141]

Land sales had been initiated prior to the 1825 regulations. Oxley had advocated the sale of Crown land to Bigge[142] and Bigge's suggestion of a dual policy of grants and sales, accompanied by a comprehensive survey,[143] was realized in the 1825 regulations. Bathurst's quit rent proposal was based on Bigge's valuations for land sales.[144] The redeemable quit rent

137. Wilmot-Horton to Douglass, 25 September 1824, CO 202/12, pp.318-328; Wilmot-Horton to Douglass, 16 November 1824, CO 202/13, pp.40-68.
138. Wilmot-Horton to Douglass, 16 November 1824, CO 202/13, p.48.
139. Douglass to Wilmot-Horton, 26 October 1824, CO 201/155, f.414.
140. Bathurst to Brisbane, 1 January 1825, HRA i,X1,440.
141. Ibid., pp.440-441.
142. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.27; Bigge, Agriculture and Trade, p.49.
143. Bigge, Agriculture and Trade, pp.48-49.
144. Ibid., p.48; Bathurst to Brisbane, 31 May 1823, HRA i,X1,87; Wilmot-Horton to Goulburn, 7 July 1824, CO 201/155, f.500.

was, in effect, an option for outright purchase and this principle was repeated in the grant conditions of 1825.[145] Oxley later commented that quit rents were equivalent to purchase except for the method of payment.[146]

Bathurst did not mention land sales when he forwarded Bigge's second and third reports to Brisbane in July 1823.[147] Brisbane was convinced that settlers made "ficticious representations of Capital" to obtain large grants and in July 1824 he suggested to Wilmot-Horton that grantees should be obliged to purchase as much land as they were granted at 5s an acre as a pledge that they intended to develop it. Land sales would yield a valuable revenue and stop the illegal sale of grants.[148] A few weeks later Brisbane expanded this proposal in a despatch to Bathurst. The rapid increase of stock made it impossible for the Crown to grant sufficient land to satisfy demand. Brisbane hoped that land sales would encourage the colonists to improve their land rather than expand into new areas. He proposed to offer 100,000 acres for sale at 5s per acre. Individuals were limited to 4,000 acres , which was double the largest grant, and families could purchase 5,000 acres. Land could be purchased in any district more than forty miles from Sydney.[149]

There was no official announcement of land for sale but by August 1824 it was common knowledge in the colony.[150] Sales were officially announced in March 1825 with the revised grant

145. Riddell, op.cit., p.390.
146. Oxley to Darling, 26 January 1826, HRA i,X11,385-386.
147. Bathurst to Brisbane, 31 July 1823, HRA i,X1,95-102.
148. Brisbane to Wilmot-Horton, 1 July 1824, ibid., pp.302-303.
149. Brisbane to Bathurst, 24 July 1824, with encls., ibid., pp.330-336.
150. e.g. W.Cox, Memorial, 23 August 1824, CSIL Memorials re:Land 4/1836B.

conditions, establishing a policy of grant and sale before the Colonial Office regulations.[151] Brisbane explained that he had delayed announcing land sales in the hope of a reply to his defence of convicts bonded to grants. Since the only comment from the Colonial Office was an order for a grant to Captain King on the terms of a redeemable quit rent, he assumed that his policy had been rejected.[152] Land sales were an alternative to the bonded convicts as a control on the demand for land.

The conditions for land sale announced in March 1825 varied a little from those proposed the year before. The price was higher and variable, from 7s 6d to 10s an acre, and land could be purchased within the County of Cumberland as well as west of the Nepean River. Established settlers had to pay ten-per cent deposit before taking possession and if the purchase was not completed in three years the land would be resumed. New settlers could reserve land adjoining their grants with an option to purchase after three years. In the intervening period they paid a rent of 15s per 100 acres.[153] The special consideration for the new settler was due to Oxley's concern that his capital be used to develop and stock land rather than to acquire more land.[154] When the Colonial Office regulations arrived a few months later, Brisbane suspended land sales.[155]

The Colonial Office did not comment on Brisbane's introduction of land sales. Brisbane justified his action by

151. S.G., 24 March 1825.
152. Brisbane to Wilmot-Horton, 24 March 1825, HRA i,X1,554.
153. S.G., 24 March 1825.
154. Oxley to Brisbane, 18 June 1824, HRA i,X1,335.
155. S.G., 26 May 1825.

reference to Bigge's recommendation.[156] The assumption by S.H.Roberts that Brisbane's introduction of land sales without direct authority from the Colonial Office resulted in the governor's recall cannot be substantiated.[157] It was more probable that his policy of attaching convicts to land grants undermined the confidence of the Colonial Office in his administration.[158] There was some criticism from the colonists that land sales were a tax and impediment to immigration but in general land sales were well accepted.[159]

The 1825 regulations had been devised by the Colonial Office as a specific rejection of Brisbane's land policy yet this was not the reaction of either Brisbane or Oxley when they assessed them. Oxley reported that few changes were needed to adapt existing regulations to the new requirements and Brisbane agreed.[160] Although the new regulations had increased the quit rent from 1.5 to five per cent of the value of the land, Oxley calculated that most land was worth only 3s not 10s an acre so the new quit rent would be the same, 15s per 100 acres. There were no guidelines for additional grants and Oxley suggested that existing procedures be retained.[161]

Brisbane was particularly satisfied that the new system included "the great leading principle ...of encouraging the maintenance of Convict Servants" through rebates to purchasers and grantees.[162] This was a triumph of his own system of attaching convicts to grants. The crucial difference which

156. Brisbane to Bathurst, 24 July 1824, HRA i,X1,330.
157. Roberts, op.cit., p.39. The Colonial Office was probably not aware of Brisbane's land sales at the time it decided on his recall.
158. See Chapter 9.
159. "Emigrant", S.G., 1 September 1825; S.G., 15 September 1825.
160. Brisbane to Bathurst, 31 July 1825, with encl., HRA i,X1,692-697.
161. Oxley to Ovens, 23 May 1825, ibid., pp.692-697.
162. Brisbane to Bathurst, 31 July 1825, ibid., p.692.

Brisbane ignored was that his bonds had been a coercive measure whereas the 1825 regulations were a voluntary scheme. Bathurst later admitted that Brisbane's policy had influenced the Colonial Office to include some encouragement for the employment of convicts in the 1825 regulations.[163]

By the time Darling took over in 1826, Oxley had considered the 1825 regulations more carefully and Darling agreed with his objections. The preference for sales left only inferior land for grants. Few settlers arrived in the colony with sufficient capital to purchase land and lost their capital while waiting for land which had not been sold. The restriction of sales and grants to areas that had been surveyed and valued delayed settlement. Shortages of convict labour meant that credit for employing convicts was unnecessary.[164] Bathurst accepted these objections. Grants and sales were given parity until land regulations were reviewed in 1830 and land could be selected within a radius from Port Stephens to Wellington to Bateman's Bay without prior survey.[165] The willingness of Bathurst to drop the key aspects of the 1825 regulations, preference for purchasers and no alienation before survey, further suggested that the 1825 regulations were primarily designed to control Brisbane.

Although new settlers were the major concern of the Colonial Office, demand for land from people already settled in the colony was a more intensive pressure of the colonial government. Brisbane was constantly petitioned for additional grants to

163. Bathurst to Darling, 2 April 1827, HRA i,X111,220-221; B.Fitzpatrick, British Imperialism and Australia 1783-1833 (1939 and Sydney, 1971), p.304.
164. Oxley to Darling, 26 January 1826, HRA i,X11,382-389; Darling to Bathurst, 22 July 1826, with encls., ibid., pp.374-424; Darling to Arthur, 5 April 1826, Arthur Papers ML A2167.
165. Bathurst to Darling, 2 April 1827, HRA i,X111,219-230; Darling's Minute, 18 July 1826, HRA i,X11,378-379.

accommodate stock increases.[166] In May 1823, all correspondence to the governor was directed to the colonial secretary's office in an attempt to regulate these applications.[167] A firmer step was taken in August 1824 when applications for additional grants and from former convicts were restricted to the first Monday of each month.[168] This was reminiscent of Macquarie's attempts to limit such applications to one day a year.[169] Applications were to be supported by references from magistrates and clergy testifying to character and means. The restrictions did not include new settlers who could apply at any time.[170]

In May 1823, Bathurst stated as a general principle that established settlers were not entitled to additional land if their present grant required further capital investment. If they had improved their original grant by cultivation or grazing stock, they could receive grants under the same conditions as new settlers, though quit rents were due immediately. The support of a number of convicts would also be acceptable proof of land usage.[171]

Brisbane had recognized that guidelines were necessary to assess the claims of settlers for additional grants and from the beginning he informally adopted the principle of supporting convict servants. If a settler had supported more than one convict for each 100 acres of his original grant, he was allowed a further 100 acres for each additional convict.[172] Settlers who wanted additional land had to accept extra

166. Brisbane to Bathurst, 29 November 1823, HRA i,X1,182.
167. S.G., 29 May 1823. See also Chapter 2.
168. S.G., 5 August 1824.
169. Bigge, Agriculture and Trade, p.35.
170. S.G., 5 August 1824.
171. Bathurst to Brisbane, 31 May 1823, HRA i,X1,87-88.
172. Goulburn to H.Macarthur, 10 April 1822, CSOL 4/3505, p.138.

convicts attached to the grant.[173]

Regulations for additional grants had been considered as early as May 1822[174] but it was not until November 1824 that Oxley stressed the necessity for a permanent system. Although he had opposed the system of attaching convicts to initial grants, Oxley accepted that if the old cultivation clauses were fulfilled a settler would employ an average of one convict for every 100 acres over five years. He therefore supported a further grant of 100 acres for each additional convict:

> This plan will be equally applicable to the claims of every description of Settlers;...no one but a bone fide settler, actually employing his Capital and industry on the land originally granted, need apply for an extension of his Grant, the Government will benefit in proportion to the number of Convicts each Settler may employ in excess, while the Settler will be rewarded for his industrious exertions by a corresponding liberality in the extension of his Grant. 175

Unlike the scheme for original grants, the settler was not compelled to maintain more convicts than his capital or intentions enabled him to employ usefully.[176]

New regulations, issued on 8 November 1824, announced that for every convict in excess of one to 100 acres of the original grant, as certified by the colonial secretary, an additional grant of 100 acres would be allowed.[177] There was a flood of applications from all classes of settlers, including those who had no land but employed convict servants. P.Gillighan, a former convict who rented a farm and supported two convicts, received a grant of 200 acres under the new regulations.[178]

173. e.g. H.Antill, Memorial, 21 April 1823, with minute, CSIL Memorials re:Land 4/1834A.
174. Second Minute, J.Moore, Memorial, 29 May 1822, CSIL Memorials re: Land 4/1831.
175. Oxley to Brisbane, 4 November 1824, HRA i,XII,397-398.
176. Ibid., p.398.
177. S.G., 11 November 1824.
178. P.Gillighan, Memorial, 10 May 1825, CSIL Memorials re:Land 4/1842A; Land for the Maintenance of Convicts 1824-1827, CS-SB 2/8016.5.

James Flinn, a free man with £4,000 invested in buildings and stock, had five convict servants and was given a 500 acre grant.[179] John Chasling had been born in the colony. Macquarie had granted him sixty acres at Wilberforce and, as he supported one convict servant, he received an additional grant of forty acres.[180]

The larger settlers were at a disadvantage. Although William Lawson had supported an average of forty-one convicts, he had received grants totally 4,740 acres so was ineligible for an extension.[181] Hannibal Macarthur and the Reverend Samuel Marsden were more successful and received 1,000 acres each.[182] T.F.Hawkins, a recent settler, had received 2,000 acres from Brisbane at Bathurst. As he employed twenty-four convicts, he was given an additional 400 acres.[183]

Seventy-nine colonists received grants totalling 20,779 acres under this regulation.[184] Of the fifty-eight who can be identified, thirty-eight had been convicts, six were born in the colony and only fourteen had arrived as free settlers. Only two, Marsden and Hannibal Macarthur, were established settlers of standing. Four others were recent officials. The others were smaller free settlers of an earlier period.

By mid-1825, Oxley considered that the new regulations had reduced the applications for further grants[185] but they

179. J.Flinn, Memorial, 11 July 1825, CSIL Memorials re:Land 4/1841B; Land for the Maintenance of Convicts 1824-1827, CS-SB 2/8016.5.
180. J.Chasling, Memorial, 11 May 1825, CSIL Memorials re:Land 4/1840C; Land for the Maintenance of Convicts 1824-1827, CS-SB 2/8016.5.
181. Goulburn to Lawson, 20 June 1825, CSOL 4/3514, p.524.
182. H.Macarthur, Memorial, 7 April 1825, CSIL Memorials re:Land 4/1843B; S.Marsden, Memorial, 2 May 1825, ibid., 4/1843A; Land for the Maintenance of Convicts 1824-1827, CS-SB 2/8016.5.
183. T.Hawkins, Memorial, 16 August 1825, CSIL Memorials re:Land 4/1842A; Land for the Maintenance of Convicts 1824-1827, CS-SB 2/8016.5.
184. Land for the Maintenance of Convicts 1824-1827, CS-SB 2/8016.5.
185. Oxley to Ovens, 23 May 1825, HRA i,X1,697.

added a considerable workload to the colonial secretary's office where the validity of each application had to be checked. In 1826, the Land Board observed that, as demand for convicts exceeded supply, liberal encouragement to employ them was no longer necessary. Brisbane's policy was inconsistent with the 1825 regulations and additional land should be purchased.[186]

Despite Brisbane's regulations, Chief Justice Forbes commented as late as 1824 on the lack of an "intelligible" system in the distribution of land. Public interest was sacrificed to those closest to the governor such as the colonial secretary, the governor's private secretary and his aides-de-camp, resulting in improvident grants often in violation of the Colonial Office's intentions.[187] Nevertheless, Brisbane read and personally minuted a large proportion of the applications for grants.[188]

There were four types of land alienation during Brisbane's administration.[189] Only two groups, grants promised by Macquarie and some of Brisbane's grants with the condition of permanently maintaining convicts, were formally registered and with few exceptions, most were dated before June 1823.[190] Neither the third nor fourth categories, grants with the November 1824 quit rent and land sales, were registered.[191]

186. Land Board to Darling, 23 February 1826, HRA i,X11,402-405.
187. Forbes to Wilmot-Horton, 10 July 1824, Catton Papers, Derby; Forbes to Wilmot-Horton, 6 March 1827, HRA iv,1,695.
188. See applications in CSIL Memorials re:Land 1822-1825. The Memorandum of Papers handed over from the Private to the Colonial Secretary at the end of the year 1825, AONSW 5/2333, was mainly lists of applications to the governor for land.
189. Oxley to Darling 26 January 1826, HRA i,X11,381.
190. Ibid.; Registers of Land Grants, Vols.10-14, Registrar-General's Department, Sydney. The exceptions were grants redrawn after one convict per 100 acres was repealed on Macquarie's promised grants in May 1825.
191. Oxley to Darling, 26 January 1826, HRA i,X11,381.

Prior to Brisbane's departure, everyone with letters for grants or warrants to purchase land was ordered to present them at the surveyor-general's office for inclusion in a general list of alienations approved by Brisbane.[192] Presumably this record was necessary to safeguard the grants which Brisbane had promised but which had not been finalized. There was a great rush to obtain promises of a grant before Brisbane's departure[193] and undoubtedly many hoped to avoid the new purchase regulations.

Oxley calculated that Brisbane alienated more than 1,068,000 acres, scattered over an area nearly 250 miles long and 140 miles wide. Most of the grants were occupied though less than half had been surveyed.[194] This figure was a slight underestimate. Grants formally registered, those in the first two categories, totalled 254,072 acres.[195] The unregistered grants and sales were detailed in the list at the close of Brisbane's government. There were grants for 581,137 acres and sales totalling 333,950 acres.[196] These four categories amount to 1,169,159 acres but fifty-seven grants for 77,780 acres were duplicated, leaving an area of 1,091,379 acres. In addition, Brisbane reserved 160,845 acres for settlers and officials.[197] The total area alienated was 1,252,224 acres.[198]

192. S.G., 10 October 1825; Australian, 10 October 1825.
193. S.G., 1 December 1825.
194. Oxley to Darling, 26 January 1826, HRA i,XII,380.
195. Registers of Land Grants, Vols.10-14, Registrar-General's Department, Sydney. See also footnote to Table 9.
196. List of Orders for Land Grants Made by Sir Thomas Brisbane 1821-1825, Surveyor-General's Order Book, AONSW 7/1279. See also footnotes to Tables 13 and 16.
197. List of Orders for Land Grants Made by Sir Thomas Brisbane 1821-1825, Surveyor-General's Order Book, AONSW 7/1279. Oxley calculated 200,000 acres in reserves but did not include them in his figure of 1,068,000 acres. Oxley to Darling, 26 January 1826, HRA i,XII,380-381.
198. Oxley did give a total figure of 1,800,000 acres but he did not explain how it was compiled. Oxley to Darling, 26 January 1826, HRA i,XII,381. Many of the grants promised by Brisbane were not registered until ten or more years later, making accurate assessment of his total grants difficult.

A closer examination of Brisbane's grants reveals the settlers who gained by his policies. Grants, whether registered or promised, have been graded in multiples of ninety-nine acres, corresponding to the number of convicts attached to each grant. Where possible, the grantees have been identified as free settlers, colonial born or former convicts, using the petitions for land and the 1828 census.[199] Particular attention has been given to the list of grants compiled in November 1825. This list covered two-thirds of the area alienated by Brisbane. It did not include grants for Macquarie's promises so was a more accurate reflection of the people whom Brisbane wished to encourage.

The majority of registered grants had been promised by Macquarie.[200] Analysis of these grants revealed that a significant proportion of grantees could not be identified though it appeared that most who received grants of less than 100 acres were former convicts whilst free settlers were prominent among the larger grantees. The number and acreage of these grants is in Table 9. The relative sizes of the grants conformed with the pattern of property sizes at the close of Macquarie's government, as shown in Table 10, but analysis of the grants ordered by Brisbane in the list of November 1825 revealed significant changes.

Brisbane promised grants to 935 people between 31 December 1821 and 22 November 1825.[201] All but eight per cent, seventy-four individuals, have been identified. Most of the former

199. CSIL Memorials re:Land 1822-1825, 4/1828 - 4/1844C; New South Wales Census, 1828.
200. Oxley to Darling, 26 January 1826, HRA i,X11,381. This was confirmed in those grants that could be identified.
201. There were 1,001 individual grants in two lists but a number of settlers received more than one grant. For simplicity, these multiple grants have been calculated as one area. Grants to institutions, such as church glebes, orphan schools and missionary societies have been excluded.

convicts and free settlers can be further divided according to when they arrived in the colony. The distribution of these grants among the colonial groups is shown in Tables 11 and 12. The analysis of the grants by size and acreage is shown in Table 13.

Table 9. Land Grants Registered During Brisbane's Government.[202]

Size	Number	Acreage
1-99 acres	412	20,646
100-499 acres	113	21,107
500-999 acres	35	20,668
1,000-1,999 acres	27	27,722
2,000 acres and over	26	84,976
Total	613	175,119

Table 10. Size of Properties in 1821.[203]

Size	Number
1-99 acres	1,245
100-499 acres	276
500-999 acres	65
1,000-1,999 acres	35
2,000 acres and over	44
Total	1,665

202. Register of Land Grants 1822-1825, Vols.10-14, Registrar-General's Department, Sydney. Fifty-seven grants duplicated in the November 1825 list have been excluded. Total acreage analysed, including duplicate grants, was 252,899 acres compared with a book total of 254,072 acres. The difference, 1,173 acres, is an error of 0.46 per cent.
203. Based on Fletcher, op.cit., Table 20, p.217. The figures were taken from the 1821 Land and Stock Muster.

Table 11. Unregistered Grants Ordered by Brisbane.[204]

A. Grants from 1 to 99 acres.

Grantee	Number	Acreage
a) Arrived Free		
1788-1799	4	138.25
1800-1809	7	381
1810-1821	11	630
1822-1825	4	192.75
date unknown	0	0
Total Free	26	1,342
b) Born in Colony	66	4,080
c) Arrived Convict		
1788-1799	9	430
1800-1809	23	1,080
1810-1821	60	3,040
1822-1825	0	0
date unknown	3	140
Total Convict	95	4,690
d) Condition and date of arrival unknown	18	1,005
Total Grants Ordered 1-99 acres	205	11,117

204. List of Orders for Land Grants Made by Sir Thomas Brisbane 1821-1825, Surveyor-General's Order Book, AONSW 7/1279; CSIL Memorials re:Land 1822-1825, 4/1828 - 4/1844C; New South Wales Census, 1828.

Table 11. (Continued)

B. Grants from 100 to 499 acres.

Grantee	Number	Acreage
a) Arrived Free		
1788-1799	15	3,300
1800-1809	27	4,690
1810-1821	37	6,526
1822-1825	23	5,500
date unknown	15	2,604
Total Free	117	22,620
b) Born in Colony	72	14,580
c) Arrived Convict		
1788-1799	9	1,825
1800-1809	18	3,968
1810-1821	18	3,400
1822-1825	1	100
date unknown	8	1,150
Total Convict	54	10,443
d) Condition and date of arrival unknown	36	7,170
f) Royal Veteran Company retirement grants	73	7,360
Total Grants Ordered 100-499 acres	352	62,173

Table 11. (Continued)

C. Grants from 500 to 999 acres.

Grantee	Number	Acreage
a) Arrived Free		
1788-1799	11	7,880
1800-1809	8	5,030
1810-1821	27	16,420
1822-1825	53	32,870
date unknown	4	2,840
Total Free	103	65,040
b) Born in Colony	19	12,050
c) Arrived Convict		
1788-1799	2	1,200
1800-1809	5	3,040
1810-1821	5	2,900
1822-1825	0	0
date unknown	1	650
Total Convict	13	7,790
d) Condition and date of arrival unknown	10	5,960
Total Grants Ordered 500-999 acres	145	90,840

Table 11. (Continued)

D. Grants from 1,000 to 1,999 acres.

Grantee	Number	Acreage
a) Arrived Free		
1788-1799	2	2,000
1800-1809	6	8,000
1810-1821	28	31,305
1822-1825	46	53,300
date unknown	7	7,700
Total Free	89	102,305
b) Born in Colony	8	9,755
c) Arrived Convict		
1788-1799	1	1,000
1800-1809	1	1,000
1810-1821	2	2,000
1822-1825	0	0
date unknown	0	0
Total Convict	4	4,000
d) Condition and date of arrival unknown	4	4,620
Total Grants Ordered 1,000-1,999 acres	105	120,680

Table 11. (Continued)

E. Grants of 2,000 acres and over.

Grantee	Number	Acreage
a) Arrived Free		
1788-1799	1	2,000
1800-1809	2	8,000
1810-1821	31	70,240
1822-1825	83	178,803
date unknown	2	4,000
Total Free	119	263,043
b) Born in Colony	1	2,000
c) Arrived Convict		
1788-1799	0	0
1800-1809	0	0
1810-1821	2	4,000
1822-1825	0	0
date unknown	0	0
Total Convict	2	4,000
d) Condition and date of arrival unknown	6	12,000
Total Grants Ordered 2,000 acres and over	128	281,043

Table 12. Distribution of Unregistered Grants among the Predominent Colonial Groups.[205]

Grantee	Number	Acreage
Arrived Free	454	454,350
Born in Colony	166	42,465
Arrived Convict	168	30,923
Royal Veteran Company	73	7,360
Condition Unknown	74	30,755
Total	935	565,853

Table 13. Size of Unregistered Land Grants.[206]

Size	Number	Acreage
1-99 acres	205	11,117
100-499 acres	352	62,173
500-999 acres	145	90,840
1,000-1,999 acres	105	120,680
2,000 acres and over	128	281,043
Total	935	565,853

Table 14. Size of Grants Registered by Macquarie.[207]

Size	Number
1-100 acres	655
101-500 acres	167
501-1,000 acres	82
1,001-2,000 acres	40
2,001 acres and over	9
Total	953

205. Compiled from Table 11. The difference of 5,284 acres between the area analysed and the face value of the surveyor-general's list (581,137 acres) is due to duplicate grants which have been excluded.
206. Ibid. A grant for 10,000 acres to the London Missionary Society was entered in the surveyor-general's list but has been excluded from this analysis
207. Fletcher, op.cit., Appendix 5, p.233. Allowance should be made for the different size classifications, though the pattern is sufficiently apparent.

The area alienated in the unregistered grants was 565,853 acres.[208] Fifty per cent of this area was in large grants of 2,000 acres and over; seventy-one per cent was in grants of 1,000 acres or more.[209] Macquarie registered a similar number of grants to those promised by Brisbane and a comparison of their distribution by size in Tables 13 and 14 reveals the changing pattern of grant sizes.

Instead of a large number of small grants graduating to a very small number of large grants, the progression was uneven. The largest number of grants promised by Brisbane, 352 grants or thirty-eight per cent, were between 100 and 499 acres, though his policy of bonding convicts to grants would have favoured areas over 100 acres. In 1821, only seventeen per cent of properties were between 100 and 499 acres and only nine per cent were larger than 500 acres.[210] Brisbane's registered grants barely changed this position but forty per cent of his unregistered grants were over 500 acres and these grants represented eighty-seven per cent of the area alienated.[211] The new pattern was clear - larger grants had increased significantly. In 1821, Macquarie felt that the scarcity of land would lead to smaller grants[212] but Brisbane consistently promised larger grants than Macquarie, though he did not exceed 2,000 acres.

Free settlers were the largest group to receive grants, being forty-nine per cent of the grantees, and they also received the greatest proportion of land, eighty per cent,

208. See footnote 205 for the difference between the list total and the area analysed.
209. See Table 13.
210. See Table 10.
211. Compare Tables 9, 13 and 14.
212. Macquarie to Bathurst, 28 November 1821, HRA i,X,568.

yet in 1825 free settlers were only nine per cent of the colonial population.[213] In each category above 500 acres, settlers who had arrived during Brisbane's administration were the largest group, particularly for grants of 2,000 acres. Their dominence was not surprising and the size of their grants indicated that Brisbane gave them considerable encouragement.[214] The next largest group of free settlers were those who had arrived during Macquarie's administration. Most of their grants were additional to land that Macquarie had given them.[215]

Among the smaller grantees who were free settlers, retired military personnel were a large group. The Royal Veteran Company stationed in the colony was disbanded in 1823 and pension grants of 100 acres were given to the seventy-three men along Bell's new line of road from Richmond over the mountains.[216] Brisbane generally gave retired rank and file service men grants of 100 acres. Of 352 grants between 100 and 499 acres, at least 103 grants were to military settlers of this description.

By the 1820s, the first generation of children born in the colony had come of age. Brisbane promised grants to 166 colonial born, totalling 42,465 acres. They formed eighteen per cent of the grantees and received eight per cent of the land.[217] In 1821, there were only 137 colonial born landholders so this was a considerable increase.[218] Fifty-five per cent of their grants were between 100 and 999 acres whereas in 1821 most colonial born proprietors had less than 100 acres.[219]

213. See Table 12; Colonial Returns 1825.
214. See Table 11.
215. Ibid.
216. Brisbane to Taylor, 26 January 1822, HRA i,X,610; Wilmot-Horton to Taylor, 26 February 1823, CO 202/11, p.29; S.G., 6 November 1823.
217. See Table 12.
218. Fletcher, op.cit., Table 20, p.217.
219. Ibid.; Table 11.

Bigge had suggested that colonial youths should be twenty-five years of age before they received a grant but Brisbane gave grants at twenty-one.[220] There were only a few cases of grants to minors.[221] Six of the nine colonial born young men who were promised grants of more than 1,000 acres were the sons of prominent settlers but only one, William Charles Wentworth, received a maximum grant of 2,000 acres. Hamilton Hume was granted 1,000 acres as a reward for his exploration work.

Behaviour was a major criterion for deciding the suitability of "currency lads" for grants. Their applications required certificates of character and property.[222] Timothy Lacey junior was refused a grant until his conviction before the criminal court had been "effaced from the Public Memory".[223] T. and E. Wills were informed that the government wished to encourage the colonial born but it required an explanation of certain proceedings at the Bathurst court.[224] William Lees, who had received 134 acres from Macquarie at Bathurst, was given an additional 300 acres by Brisbane in recognition of his efficiency.[225]

There was no policy for grants to the sons of settlers, whether born in the colony or those who had arrived as children. Brisbane adapted his policy of one convict to 100 acres as a guideline to determine their eligibility. There was no announcement that this rule would be applied but from early 1823

220. Bigge, Agriculture and Trade, p.50; Minute, J.Colletts, Memorial, n.d. (1824?), CSIL Memorials re:Land 4/1835A.
221. Bonds signed for Henry Bayley, a minor, by Nicholas Bayley in 1822 and for Arthur Douglass, a minor, by H.G.Douglass, also in 1822. Certificates of Bonds for Maintaining Convicts 1822-1825, AONSW 2/1626.1.
222. Minute, R.Porter, Memorial, 28 September 1825, CSIL Memorials re:Land 4/1844A.
223. Minute, T.Lacey jr, Memorial, 31 March 1823, ibid., 4/1835A.
224. Minute, T. & E.Wills, Memorial, n.d. (1823?), ibid., 4/1835B.
225. Minute, W.Lees, Memorial, 12 October 1823, ibid., 4/1835A.

sons of large settlers, such as Archibald Bell junior, George and William Cox junior, John Lawson and John Palmer, who applied for grants were informed by the colonial secretary of the extent of land that had been granted to their families. If their families had supported the required proportion of convicts over ten years, the sons were allowed a grant.[226] For newly arrived families, grants were not made to sons of settlers who had recently received a maximum grant of 2,000 acres.[227] In July 1824, Brisbane asked the Colonial Office for guidance but the new regulations of 1825 did not include special provisions for the sons of settlers.[228]

Small settlers were overwhelmingly former convicts. The conscientious ones made a comfortable living[229] but for many lack of capital and skill led to debts and the loss of their land.[230] Bigge commented that the quality of land in the colony was not generally suitable for farming thirty acre grants if the settler had neither capital nor knowledge and he recommended that former convicts should have at least £20 in stock or implements before they were allowed a grant. Land should be reserved for these small grants near to markets and these settlers should receive twelve months assistance in rations.[231]

Former convicts benefited least from Brisbane's distribution of land. Though emancipists received as many grants as the colonial born and were eighteen per cent of the grantees, they received only six per cent of the area alienated.[232] Over half their grants were less than 100 acres

226. Goulburn to A.Bell jr, 5 May 1823, CSOL 4/3508, p.250; Goulburn to Palmer, 27 June 1823, ibid., p.589; G.Cox, Memorial, 3, 29 April 1823, CSIL Memorials re:Land 4/1834B.
227. J.Phillips, Memorial, 8 March 1824, CSIL Memorials re:Land 4/1839A; Goulburn to Phillips, 29 March 1824, CSOL 4/3510, p.583.
228. Brisbane to Bathurst, 24 July 1824, HRA i,X1,331.
229. Fletcher, op.cit., pp.194-195,217.
230. J.Atkinson, op.cit., p.33.
231. Bigge, New South Wales, pp.172-173.
232. See Table 12.

and eighty-nine per cent were under 500 acres.[233] The size of their grants was consistent with their landholding in 1821 but the small number of new grants eroded their opportunities as settlers.[234]

Few grants were given as rewards to emancipists. Robert Aull worked his small grant and a rented farm at Richmond. His application for a reward for capturing three armed bushrangers was endorsed by the local magistrates who suggested that a small grant would be suitable because he was a sober and hardworking farmer but Brisbane decided that a financial reward was more suitable.[235]

The former convicts who received orders for land from Brisbane were predominantly those who had arrived during Macquarie's administration. Their sentences having expired or been remitted, they applied for the traditional indulgence of a grant. Brisbane's few grants to this group preceded the changing attitude of the British government toward former convicts and small settlers. When Darling's commission and instructions were prepared in 1825, the clause authorizing the governor to grant land to former convicts was omitted.[236]

Brisbane and Oxley were conscious of the special problems of bone fide small settlers and grants were located on reasonably fertile land close to towns.[237] Brisbane's policy toward the emancipist settlers was one of "due encouragement...

233. See Table 11.
234. Fletcher, op.cit., Table 20, p.217.
235. Aull and Astbury to Brisbane, 30 September 1825, with minutes, CSIL 4/1787, f.148; R.Aull, Memorial, n.d.(1822?), CSIL Memorials re:Land 4/1828; R.Aull, Memorial, 30 September 1824, ibid., 4/1836B.
236. See Table 11; Fletcher, op.cit., p.224.
237. Oxley to Goulburn, 11 August 1823, SGOL 4/6906, pp.64-65.

combined with the means they possess of doing Justice to a Grant".[238] He hoped that the small settlers would

> quit the Towns and become useful and industrious cultivators of the soil, to the certain improvement of their moral character. [239]

Yet, despite the colonial government's appreciation of the place of the small settler, the reality was less encouraging. Applications from small settlers and former convicts were often put aside until suitable land was surveyed.[240] In September 1823, there were at least 1,000 small settlers with orders for grants waiting for their locations.[241] Many simply established themselved on unoccupied land, complicating later surveys.[242]

Brisbane's policy of additional grants for additional convicts enabled several emancipists to acquire land, often as much as 400 or 500 acres[243] but such cases were a minority.[244] Only six grants exceeding 1,000 acres were promised to former convicts. Two, William Redfern and Richard Fitzgerald, had been prominent favourites of Macquarie; Solomon Levey, Robert and Daniel Cooper were successful entrepreneurs and Dr William Bland was allowed a grant because of his "valuable and useful services" and his respectable character.[245]

The desire for land was intense among all colonists but the most persistent group was officials of the colonial government. From the moment of his arrival, Brisbane was conscious of the problems caused by civil and military

238. Brisbane to Bathurst, 14 May 1825, HRA i,X1,579.
239. Brisbane, Circular to Clergy and Magistrates, n.d., Catton Papers, Derby.
240. Minute, D.Foley, Memorial, 1 October 1824, CSIL Memorials re:Land 4/1837A; Oxley to Cavenagh, 26 September 1823, SGOL 4/6906, pp.86-87.
241. Oxley to Goulburn, 3 September 1823, SGOL 4/6906, p.75.
242. Oxley to Goulburn, 11 August 1823, ibid., p.64; Oxley to Hoddle, 26 September 1823, ibid., pp.92-93.
243. Land for the Maintenance of Convicts 1824-1827, CS-SB 2/8016.5.
244. See Table 11.
245. Ibid.; Minute, W.Bland, Memorial, 17 October 1825, CSIL Memorials re:Land 4/1840B.

officials with grants who put their private concerns before their duty, especially if policies affected their farming interests.[246] Macquarie had similar problems and Bathurst had discontinued grants to officials before retirement.[247] Brisbane enforced this ban on new appointments and officials were warned that an application for land would be accepted as their resignation.[248]

In spite of this restriction, there were exceptions. Peter Murdock, Robert Crawford and Phillip Cavenagh had arrived with Brisbane and had letters for grants from the Colonial Office.[249] Brisbane gave them colonial appointments and Murdock and Crawford received maximum grants of 2,000 acres while Cavenagh was given 1,000 acres with a reserve.[250] John Macarthur bitterly reported that Dr H.G.Douglass had received a special grant and added that the colonial secretary had evaded positive orders against grants for officials in several instances.[251]

The threat of dismissal did not deter applications. Some officials, such as Dr James Bowman, considered that their circumstances entitled them to apply directly to the Colonial Office. Bowman obtained permission for a grant because of the increase of his property following his marriage to John Macarthur's daughter.[252] Most senior officials reserved land

246. e.g. the Druitt case and the dollar controversy. See Chapters 2 and 5.
247. Macquarie to Bathurst, 13 May 1817, HRA i,1X,394; Bathurst to Macquarie, 24 July 1818, ibid., pp.823-824.
248. Goulburn to Tuckwell, 20 July 1822, CSOL 4/3506, p.68; Goulburn to Gillman, 16 December 1823, CSOL 4/3509, p.709; Brisbane to (?), 26 July 1823, Brisbane Papers ML FM4/1626, Section 1.
249. H.Goulburn to Brisbane, 6, 12 April 1821, CO 202/9, p.163,165.
250. F.Goulburn to Murdock and Crawford, 16 March 1822, CSOL 4/3505, p.37; List of Orders for Land Grants Made by Sir Thomas Brisbane 1821-1825, Surveyor-General's Order Book, AONSW 7/1279.
251. J.Macarthur to J.Macarthur jr, 24 January 1824, Macarthur Papers ML A2899.
252. Bathurst to Brisbane, 2 January 1825, with encl., HRA i,X1,458-459.

for retirement grants[253] and grazed their stock on tickets of occupation which they transferred to grants.[254] Officials could purchase land and many did so.[255] A few were able to extend their land under the regulations for additional grants.[256]

Brisbane gave grants or reserves totalling 62,200 acres to thirty-three officials, the majority of whom had been appointed by the Crown in 1824 and 1825.[257] In June 1825, Bathurst removed the prohibition against grants for officials and they were placed on an equal standing with other settlers in terms of capital and character; however, they had to employ a resident agent and their farming concerns were not to interfere with their public duties.[258]

Land was also reserved for visitors to the colony, such as ships' captains, merchants and naval personnel. The reserves were limited to eighteen months to allow the prospective colonist time to return to Britain, settle his affairs and bring out his family when the reserve was confirmed as a grant.[259] Brisbane promised reserves of 160,845 acres to settlers like these or to government officials.[260]

Grants to women were rare. It was not policy to give land to women, particularly if they were unmarried. The few

253. J.Dodds, Memorial, - April 1824, CSIL Memorials re:Land 4/1837A; G.Brooks, Memorial, n.d.(1824?), ibid., 4/1836B; R.Hoddle, Memorial, 3 June 1824, ibid., 4/1837B.
254. Goulburn to Harris, 30 June 1824, CSOL 4/3511, p.573; J.Bowman, Memorial, 30 January 1824, HRA i,X1,459. See below for tickets of occupation.
255. S.Harris, Memorial, 15 October 1824, CSIL Memorials re:Land 4/1837B; W.Lithgow, Memorial, 18 May 1825, ibid., 4/1843A; S.Marsden, Memorial, 2 May 1825, ibid.
256. J.Oxley, Memorial, 13 June 1825, ibid., 4/1843B; Goulburn to Hely, 10 November 1825, CSOL 4/3515, p.578; Land for the Maintenance of Convicts 1824-1827, CS-SB 2/8016.5.
257. Darling to Murray, 24 November 1828, encl., HRA i,XIV,478-479.
258. Bathurst to Brisbane, 5 June 1825, HRA i,X1,638-639.
259. M.Price, Memorial, 23 September 1824, CSIL Memorials re:Land 4/1839A; C.Queade, Memorial, 3 September 1824, ibid.
260. List of Orders for Land Grants Made by Sir Thomas Brisbane 1821-1825, Surveyor-General's Order Book, AONSW 7/1279.

who received grants were widows and the land had been promised to their husbands or was given in trust to relieve their destitution.[261] There were some exceptions. Mary Sherwin was a widow with ten children but she had £2,000 to invest on her grant and she received 300 acres for her family.[262] Mary Reiby, a widow and former convict, was a successful business woman. She applied for an additional land to accomodate her stock and was given 700 acres, not only the largest grant for a woman but a large grant for a former convict.[263] Three women received land for maintaining extra convicts[264] and several applied for tickets of occupation to graze their stock.[265] Jemima Jenkins, widow of the merchant Robert Jenkins, was allowed to purchase 2,000 acres.[266]

One of the most important considerations in the allocation of grants was the applicant's capital. In 1821, Oxley defined the relationship between a settler's capital and the extent of his grant. The scale ranged from 100 acres for £100 to 1,000 acres for £1,500 and 2,000 acres for £3,000.[267] Bigge recommended this scale but with a minimum of £500 for 500 acres.[268] and the Colonial Office refused to issue letters of introduction for settlers unless they possessed at least £500.[269] However, an increasing number of settlers did not apply

261. A.Bushell, Memorial, n.d.(1823?), CSIL Memorials re:Land 4/1834A; H.Morris, Memorial, 21 July 1825, ibid., 4/1843B; M.Baker, Memorial, 4 May 1824, ibid., 4/1836A; C.Clarkson, Memorial, 6 September 1824, ibid., 4/1840C; List of Orders for Land Grants Made By Sir Thomas Brisbane 1821-1825, Surveyor-General's Order Book, AONSW 7/1279.
262. M.Sherwin, Memorial, n.d.(1825?), CSIL Memorials re:Land 4/1844B.
263. M.Reiby, Memorial, 20 June 1825, ibid., 4/1844A. See Table 11.
264. Minute, L.Hely, Memorial, 20 September 1825, CSIL Memorials re:Land 4/1842A; Land for the Maintenance of Convicts 1824-1827, CS-SB 2/8016.5.
265. J.Jenkins, Memorial, n.d.(1822), CSIL Memorials re:Land 4/1830; E.Walsh, Memorial, 2 July 1823, ibid., 4/1835B; Minute, L.Hely, Memorial, n.d. (1823?), ibid., 4/1834B.
266. List of Orders for Land Grants Made By Sir Thomas Brisbane 1821-1825, Surveyor-General's Order Book, AONSW 7/1279.
267. Macquarie to Bathurst, 28 November 1821, with encl., HRA i,X,568,572.
268. Bigge, Agriculture and Trade, p.48.
269. See Chapter 4.

to the Colonial Office before leaving Britain.[270] In February 1825, Bathurst recognized this situation and authorized Brisbane to grant land to settlers without letters from the Colonial Office, provided that they possessed adequate capital to bring their land into cultivation.[271]

Capital invested in goods had returned large profits in the past but by the 1820s the colonial market was often flooded with imports. New settlers, who had made investments on credit in the hope of sufficient profit to establish them in the colony, risked heavy losses if the market was glutted and frequently had to wait months before the cargo was sold.[272] In such cases, the capital for the immediate development of their grant was largely fictitious. Macquarie had introduced affidavits which required new settlers to state their capital available to invest in their land[273] but these statements proved unreliable. Brisbane was convinced that local merchants issued false statements of a new settler's capital.[274] He was aware that he was frequently deceived by settlers and the extent of their capital despite his hopes that his policy of attaching convicts to grants would prevent this deception.[275]

The Colonial Office was concerned that Brisbane did not enquire sufficiently into the capital of new settlers and that he did not follow the scale recommended by Bigge.[276] These fears ignored Brisbane's serious desire to prevent speculation and ensure that all grants were developed. The format which required

270. See Chapter 4.
271. Bathurst to Brisbane, 24 February 1825, HRA i,X1,526-527.
272. J.Atkinson, op.cit., p.126; D.Reid, Memorial, 16 January 1822, CSIL Memorials re:Land 4/1831. See also Chapter 4.
273. Macquarie to Bathurst, 28 November 1821, HRA i,X,569.
274. Brisbane to Wilmot-Horton, 24 March 1825, HRA i,X1,554.
275. Brisbane to Bathurst, 28 January 1825, ibid., p.480.
276. Wilmot-Horton to Douglass, 25 September 1824, CO 202/12, pp.318-319.

a settler to state that he possessed "sufficient" capital to support a certain number of convicts discouraged more specific information but suggestions that Brisbane rarely investigated a settler's affairs if he had a respectable introduction, such as a letter from the Colonial Office, were not completely accurate.[277]

Many settlers with such introductions were promptly given grants from 1,000 to 2,000 acres if they could support the required number of convicts[278] but the investigation of others was more detailed. William Powditch had a letter from the Colonial Office but was asked to state the extent of the capital that he intended to employ in agricultural pursuits.[279] J.Owen's request for 2,000 acres at Newcastle was approved if he had adequate means and produced a letter from the Colonial Office.[280] William Bradridge required the testimony of a reliable merchant as to the extent of his capital.[281] Daniel Peach had a letter from the Colonial Office and he objected to revealing the details of his capital to Sydney merchants.[282]

Most settlers who stated their capital fell within the guidelines approved by Bigge. William Bradridge received a grant of 500 acres with £570 capital.[283] J.Craig had £1,800 and was given a grant of 1,200 acres[284] while William Powditch with £3,000 received a maximum grant of 2,000 acres.[285] Robert

277. Busby to Kelman, 13 September 1824, Kelman/Busby Papers ML MSS 1183.
278. e.g. G.Innes, Memorial, 13 February 1823, CSIL Memorials re:Land 4/1835A; Orders for Land Grants, 1822, HRA i,X,606.
279. Goulburn to Powditch, 25 June 1824, CSOL 4/3511, p.531.
280. Minute, J.Owen, Memorial, 18 June 1822, CSIL Memorials re:Land 4/1831.
281. Minute, W.Bradridge, Memorial, 17 August 1824, ibid., 4/1836A.
282. D.Peach, Memorial, 2 August 1825, ibid., 4/1843B; Orders for Land Grants, 1824, HRA i,X1,191.
283. W.Bradridge, Memorial, 17 August 1824, CSIL Memorials re:Land 4/1836A; List of Orders for Land Grants Made by Sir Thomas Brisbane 1821-1825, Surveyor-General's Order Book, AONSW 7/1279.
284. J.Craig, Memorial, 2 November 1825, with minute, CSIL Memorials re:Land 4/1841A.
285. W.Powditch, Memorial, 28 June 1824, with minute, ibid., 4/1839A.

Martin claimed that he had "sufficient" means to support twenty convicts but as he had only £1,500 he received 1,200 acres, which was consistent with his actual capital rather than his claim.[286] William Tom requested a grant of 2,000 acres but his capital was only £600 and he received 500 acres.[287] Douglass was therefore incorrect when he told Wilmot-Horton that settlers required only half as much capital as formerly.[288] There were some inconsistencies and settlers with little capital received larger grants while others who had relied on the influence of friends felt they had received less than their due.[289]

The introduction of land sales by the colonial government in mid-1824 and by the Colonial Office in January 1825 established a direct relationship between land and capital. The major difference between the two policies was that Brisbane's scheme was a private contract between the purchaser and the government while the British regulations established sale by competitive auction.[290] Because there was no survey and valuation before Brisbane left, most of the land was sold according to Brisbane's regulations. Originally he had limited the area for sale to 100,000 acres[291] but by May 1825 applications had been received for 230,000 acres. The settlers

286. R.Martin, Memorial, 13 September 1824, CSIL Memorials re:Land 4/1838A; List of Orders for Land Grants Made by Sir Thomas Brisbane 1821-1825, Surveyor-General's Order Book, AONSW 7/1279.
287. W.Tom, Memorial, n.d.(1824?), CSIL Memorials re:Land 4/1839B; List of Orders for Land Grants Made by Sir Thomas Brisbane 1821-1825, Surveyor-General's Order Book, AONSW 7/1279.
288. Douglass to Wilmot-Horton, 12 October 1824, CO 201/155, ff.402-403.
289. Busby to Kelman, 13 September 1824, Kelman/Busby Papers ML MSS 1183. For example, William Clemson stated his capital as £350 but he received a grant of 500 acres. W.Clemson, Memorial, 14 October 1825, CSIL Memorials re:Land 4/1840C; List of Orders for Land Grants Made by Sir Thomas Brisbane 1821-1825, Surveyor-General's Order Book, AONSW 7/1279.
290. Minute, J.Farmer, Memorial, 30 August 1825, CSIL Memorials re:Land 4/1841B.
291. Brisbane to Bathurst, 24 July 1824, HRA i,X1,330-336.

had paid their deposits, though Oxley's confidence that the full amount would soon be paid was unrealistic.[292]

By November 1825, Brisbane had issued warrants for the sale of 333,950 acres.[293] In 1827, Darling calculated that Brisbane had sold 358,110 acres, of which 263,860 acres was at a contract price of 5s an acre. Only 2,250 acres had been sold for 7s 6d and 46,000 acres had been sold under the lease and conditional purchase terms for new settlers.[294] The announcement of the Colonial Office sale regulations in May 1825 slowed the sale of land and only 46,000 acres were sold under the new regulations before Brisbane's departure.[295]

An analysis of settlers who received warrants to purchase land is shown in Tables 15 and 16. Seventy-five per cent of the purchasers were free settlers and they bought eighty-one per cent of the land. Most had arrived during Brisbane's administration and many had also received a maximum grant of 2,000 acres. Since few purchasers took advantage of the lease and conditional purchase terms available for recent settlers, most were obviously confident that their financial resources were sufficient to develop their grant as well as purchase additional land. The next largest group were settlers who had arrived during Macquarie's government and about half of these purchasers had also received sizable grants from Brisbane. The pre-Macquarie free settlers had received relatively few grants from Brisbane and were anxious to purchase.

292. Oxley to Ovens, 23 May 1825, HRA i,X1,694; Darling to Huskisson, 28 May 1828, HRA i,X1V,206-209.
293. List of Orders for Land Grants Made by Sir Thomas Brisbane 1821-1825, Surveyor-General's Order Book, AONSW 7/1279.
294. Darling to Bathurst, 5 April 1827, encl., HRA i,X111,237. Darling's figure of 558,110 acres in 1828 was probably a mistake in the transcription of the first digit. Darling to Huskisson, 27 August 1828, HRA i,X1V,346.
295. Darling to Bathurst, 5 April 1827, encl., HRA i,X111,237.

Table 15. Distribution of Warrants to Purchase Land.[296]

Purchaser	Number who Only Purchased Land	Number of Purchasers who also Received Grants from Brisbane Divided by Size of Grant					Total Number of Purchasers
		1-99 acs.	100-499 acs.	500-999 acs.	1,000-1,999 acs.	2,000- over	
a) Arrived Free							
1788-1799	5	0	2	6	2	1	16
1800-1809	10	0	2	1	1	0	14
1810-1821	13	1	1	2	5	12	34
1822-1825	7	1	1	3	7	25	44
date unknown	4	0	1	1	0	0	6
Total Free	39	2	7	13	15	38	114
b) Born in Colony	7	1	5	4	2	0	19
c) Arrived Convict							
1788-1799	2	0	0	0	1	0	3
1800-1809	3	0	0	1	0	0	4
1810-1821	0	1	2	1	0	0	4
1822-1825	0	0	0	0	0	0	0
date unknown	3	0	0	0	0	0	3
Total Convict	8	1	2	2	1	0	14
d) Condition and date of arrival unknown	6	0	0	0	0	0	6

296. List of Orders for Land Grants Made by Sir Thomas Brisbane 1821-1825, Surveyor-General's Order Book, AONSW 7/1279; CSIL Memorials re:Land 4/1836A - 4/1844C; New South Wales Census, 1828.

Table 16. Area Alienated in Purchase Warrants.[297]

Purchaser	Number	Acreage
Arrived Free	114	271,530
Born in Colony	19	28,540
Arrived Convict	14	19,980
Condition Unknown	6	15,600
Total	153	335,650

Colonial born and those who had arrived as convicts were a much smaller proportion of purchasers than the free settlers. Most colonial youths had limited access to capital to purchase land so their representation, twelve per cent of purchasers, was considerable especially since Brisbane had been comparatively generous with grants to this group. The smaller number of former convicts, only nine per cent of purchasers, also indicated lack of capital and, since purchase depended on government approval, possibly lack of official encouragement.

The area purchased was generally 1,000 to 4,000 acres though there were some blocks as small as 320 acres. Unlike the Colonial Office, which set a minimum area of 1,920 acres,[298] Brisbane did not specify a minimum area for purchase and applications were considered individually.[299] The restriction of 5,000 acres per family was not enforced. The McDougall family, father and four sons, purchased 2,000 acres each, a

297. The list total was 333,950 acres compared with an analysed total of 335,650 acres, an error of 2,300 acres. List of Orders for Land Grants Made by Sir Thomas Brisbane 1821-1825, Surveyor-General's Order Book AONSW 7/1279.
298. Bathurst to Brisbane, 1 January 1825, HRA i,X1,442.
299. Compare Roberts, op.cit., p.39 that Bathurst's scheme was more flexible for the large and small settler than was Brisbane's.

total of 10,000 acres.[300]

The financial commitment to purchase land on such a large scale was considerable. At the contract price of 5s per acre, 2,000 acres would cost £500, 4,000 acres £1,000 and £1,250 for 5,000 acres. The purchase of large areas, especially by those who had so recently received grants, was a reflection of contemporary attitudes to the expansion of the colony. In spite of the vastness of the continent and the possibility of good land still to be discovered, such land would be further away from the main settlements and transport would be difficult and expensive. For established settlers based in the Cumberland Plain, the opportunity to purchase a large block in the newer regions was preferable to extending their holdings by piecemeal buying around their original grant. Good returns on wool and timber encouraged old and recent settlers to expand their landholding in anticipation of increasing good returns.[301]

Traditional land distribution by grant could not cope with this escalating demand and new forms of tenure were essential. Macquarie, Bigge and Brisbane believed that land sales were the only way to keep pace with this demand.[302] The capital required for purchase limited it to a small proportion of settlers. Under Brisbane's administration, a more flexible response to grazing needs was the ticket of occupation or location.

300. Brisbane to Oxley, 12 August 1824, HRA i,X1,336; List of Orders for Land Grants Made by Sir Thomas Brisbane 1821-1825, Surveyor-General's Order Book, AONSW 7/1279.
301. Landholders to Darling, n.d.(1828?), in Darling to Huskisson, 28 May 1828, HRA i,X1V,207-208.
302. Macquarie to Bathurst, 28 November 1821, HRA i,X,568; Bigge, Agriculture and Trade, p.48; Brisbane to Bathurst, 24 July 1824, HRA i,X1,331.

Macquarie had allowed settlers the temporary use of grazing land in the newly discovered land west of the mountains since 1815 and in the south-west from 1819.[303] The governors' instructions included a fee for a licence of occupation[304] and Bigge recommended that settlers be allowed temporary grazing land next to their grants for up to seven years.[305] Brisbane extended Macquarie's temporary grazing permits into a routine system of land tenure. Brisbane's ticket of occupation has been considered as a measure of expediency, an administrative necessity to cope with the relentless demand for grazing land.[306] This was true but the tickets of occupation were more than this; they were a positive and carefully regulated system of land occupation.

There was no formal announcement of changes to Macquarie's temporary grazing permits.[307] The first of the new tickets was issued to William Cox on 5 January 1822 for the Mudgee district.[308] The second was for Andrew Byrne on 19 February 1822 to graze his cattle in the Illawarra district.[309] and from March 1822 there were steady requests to the colonial secretary for tickets of occupation.

The procedure was simple. A stockowner who wanted additional grazing land selected an area suitable for his purposes, usually at some distance from granted land or other grazing runs so that the stock would not be mixed. He submitted a rough description of its location to the colonial secretary

303. Perry, op.cit., pp.32-33,83,101,103.
304. Macquarie's Instructions, 9 May 1809, HRA i,V11,197; Brisbane's Instructions 5 February 1821, HRA i,X,602.
305. Bigge, Agriculture and Trade, p.49.
306. Perry, op.cit., p.47.
307. Macquarie's permits were not cancelled but became part of the new system and subject to the same restrictions. Antill to Goulburn, 13 April 1823, CSIL Memorials re:Land 4/1834A.
308. Goulburn to Cox, 5 January 1822, CSOL 4/3504A, p.239. Perry was mistaken that the first ticket was issued in February 1822. Perry, op.cit., p.86.
309. Goulburn to Byrne, 19 February 1822, CSOL 4/3504A, p.458.

with the number and brands of his stock and the names of his stockmen, usually convicts or ticket of leave men. If the area was not allocated to anyone else, the stockowner was issued with a ticket of occupation. The area was calculated at ten acres per animal and was described as a radius of a number of miles from a central point such as stockyards.[310] The ticket of occupation entitled the stockman to graze his sheep or cattle in the area until he was given six months notice to leave by the government. In October 1824, in the only official statement on the policy, settlers were reminded that the land was to be used only for pasture and any timber cut in excess of that necessary for essential construction could render the stockowner liable for damages.[311]

Brisbane's system of occupation differed from Macquarie's by allowing six months instead of one month to remove stock[312] and it specified a limited area rather than a general region.[313] The ticket of occupation did not permanently alienate the land so did not hinder other plans for permanent land distribution.[314] Land was available quickly without survey and therefore did not add to the work of the surveyor-general's department. The lack of maps meant that the descriptions of the locations were vague. This led to some conflicts which were resolved by one of the parties moving further out.[315]

Objections to its insecurity[316] were overruled by its

310. Minute, W.Hayes, Memorial, 21 July 1823, CSIL Memorials re:Land 4/1834B.
311. S.G., 28 October 1824.
312. Perry, op.cit., p.33.
313. Ibid., p.86.
314. Ibid., p.44.
315. R.Townson, Memorial, 29 September 1823, with minute, CSIL Memorials re:Land 4/1835B.
316. J.Campbell, Memorial, 22 July 1822, ibid., 4/1829; Minutes of a conversation between Brisbane and Jamison, 20 July 1822, CSIL 4/1761, f.78 ff.; Jacobs to Bathurst, 7 September 1822, HRA i,XI,54.

convenience for all settlers and for the government. Tickets of occupation did not require any assessment of capital. No rent was charged so virtually no capital was required beyond the acquisition of stock. Colonists without assets who applied for grants were told that if they acquired stock they would be allowed an appropriate ticket of occupation.[317] Those who based their claims for additional grants on their stock increase were given tickets of occupation instead of grants.[318] Small settlers could combine their stock under a common stockman.[319] Some of the larger stockowners had more than one ticket while others changed their location each year.[320]

There are no complete returns of the number of tickets of occupation issued by the colonial secretary and the system of irregular numbering prevents estimates.[321] At least 242 tickets of occupation were issued between 1822 and 1825. Almost all were in the drought years of 1823 and 1824. The 242 tickets were distributed among 188 settlers, of whom sixty-one per cent had also received grants from Brisbane. The distribution of tickets among this group is shown in Table 17. The dominant ticket holders among the grantees were the free settlers who had arrived before 1822. They had established herds and flocks which required additional grazing land. Those who had received only medium grants from Brisbane, whether free, colonial born or emancipist, were attracted to the ticket of occupation.

317. e.g. Goulburn to T.Arndell, H.Kable jr and J.Pugh, 12 September 1823, CSOL 4/3509, p.240.
318. e.g. W.Roberts, Memorial, 4 November 1823, with minute, CSIL Memorials re:Land 4/1835B.
319. Goulburn to J.Onus, F.Tong and R.Williams, 15 April 1824, CSOL 4/3510, p.638.
320. Judge-Advocate Wylde had three tickets in 1824. CSOL 4/3511-3512.
321. e.g. a typical series was $\frac{412}{436}$, $\frac{434}{437}$, $\frac{436}{448}$, $\frac{437}{469}$, $\frac{448}{474}$, $\frac{469}{475}$, CSOL 4/3510.
The first ticket issued to W.Cox was numbered $\frac{---}{458}$, CSOL 4/3504A, p.239

Table 17. Distribution of Tickets of Occupation Among Grantees.[322]

	Number of Tickets per Grant Size					
Ticket Holder	1-99 ac.	100-499 ac.	500-999 ac.	1,000 1,999 ac.	2,000 ac and over	Total
a) Arrived Free						
1788-1799	0	5	6	2	0	13
1800-1809	4	6	2	3	0	15
1810-1821	1	4	7	7	11	30
1822-1825	0	0	2	1	7	10
date unknown	0	1	1	1	0	3
Total Free	5	16	18	14	18	71
b) Born in Colony	4	6	1	3	1	15
c) Arrived Convict						
1788-1799	1	2	0	1	0	4
1800-1809	2	6	3	1	0	12
1810-1821	1	4	1	0	0	6
1822-1825	0	0	0	0	0	0
date unknown	0	0	1	0	0	1
Total Convict	4	12	5	2	0	23
d) Condition and date of arrival unknown	1	3	0	0	0	4
e) Royal Veteran Company	0	1	0	0	0	1

322. Tickets of occupation extracted from CSOL 4/3504A - 4/3515; List of Orders for Land Grants Made by Sir Thomas Brisbane 1821-1825, Surveyor-General's Order Book, AONSW 7/1279. Minutes on applications for land grants in CSIL Memorials re:Land suggest that there were more tickets of occupation than the numbered series in CSOL correspondence.

Among the ticket holders who did not receive grants from Brisbane there were a number of prominent settlers, merchants and officials, such as Robert Campbell, Richard Brooks, George Druitt and Judge-Advocate Wylde; however, most were small settlers who cannot be readily identified, though a considerable proportion appear to have been colonial born youths and former convicts. There were also two women.

The majority of the tickets of occupation were issued for areas south-west of Sydney in the Goulburn Plains region or north-west of Bathurst. None were allowed in the Camden district and only a few in the Hunter Valley because the surveyors were measuring and allocating grants there.[323] In regions where ticket holders were given notice to move because of the approach of the surveyors, they could apply for a new location[324] but for a number of settlers their ticket of occupation was the origin of more permanent title to the land. Many applied for a grant of a portion of their tickets and, in general, if he was entitled to a grant, the ticket holder was given preference over newcomers to the area.[325] Others applied to purchase parts of their grazing runs but with varying success. Robert Townson had difficulty in purchasing 4,000 acres of his ticket of occupation because the colonial government believed that his purchase would make the surrounding area useless for any one else.[326]

323. Perry, op.cit., Figure 5, p.35; M.Brennan, Memorial, 30 June 1823, with minute, CSIL Memorials re:Land 4/1834A; Goulburn to Onus, Tong and Williams, 15 April 1824, CSOL 4/3510, p.638.
324. Oxley to Lees, 22 March 1825, SGOL 4/6906, p.393.
325. T.Hassall, Memorial, 21 January 1823, CSIL Memorials re:Land 4/1834B; H.Antill, Memorial, 13 April 1823, ibid., 4/1834A; Oxley to McBrien, 30 April 1823, SGOL 4/6906, p.38.
326. W.Lee, Memorial, 11 October 1824, CSIL Memorials re:Land 4/1838A; J.Moore, Memorial, 24 August 1824, ibid., 4/1838B; Oxley to Hoddle, 26 March 1825, SGOL 4/6906, p.405; R.Townson, Memorials, 23 July, 11 August 1825. with minutes, CSIL Memorials re:Land 4/1844C.

At the close of Brisbane's administration, the tickets of occupation were praised as a major factor in doubling flocks and herds within four years and this comment was echoed by other settlers.[327] The applications showed a fairly equal interest in using the land to graze sheep and cattle. William Cox, in applying for a new location in October 1822, complained that the Bathurst plains were so heavily stocked with sheep that he wanted to move his cattle to a more isolated region.[328]

Oxley criticized the ticket of occupation system. The tickets hindered survey by encouraging widespread occupation; they discouraged the sale of land since few would buy what they could use for nothing and they provided little incentive to improve land already acquired. Furthermore, "Individuals, possessing scarcely any property and of doubtful Character" received £400-£500 per year for grazing other people's stock, often with little supervision so that animals wandered nearly wild to the serious injury of more respectable settlers' stock.[329] Darling was sceptical that the system was as harmful as Oxley argued[330] but by the close of 1826 the ticket of occupation had been replaced by a lease system.[331] The end of the tickets of occupation had already been foreshadowed in the new land regulations of 1825. Douglass recognized that the preference for sales would probably end informal occupation on the tickets[332] and Bathurst, in approving Darling's abolition

327. Australian, 27 October 1825. The occasion was the meeting for a farewell address for Brisbane. The tickets of occupation were not included in the address and Mrs Brooks blamed this omission of public praise as a reason why Darling was able to abolish them. Mrs Brooks, Diary, 8 September 1826, NLA MS 1559/4; B.Field, "Journal of an Excursion Across the Blue Mountains, October 1822" in G.Mackaness (ed.) Fourteen Journeys Over the Blue Mountains of New South Wales 1813-1841 (3 vols., Dubbo, 1978), Vol.2, p.45.
328. W.Cox, Memorial, 8 October 1822, CSIL Memorials re:Land 4/1833.
329. Oxley to Darling, 26 January 1826, HRA i,X11,387-388.
330. Darling to Arthur, 15 January 1826, Arthur Papers ML A2167.
331. Mrs Brooks, Diary, 8 September 1826, NLA MS 1559/4.
332. Douglass to Wilmot-Horton, 1 January 1825, CO 201/166, f.277.

of the tickets, commented that the system had been extensively abused and was an obstacle to land distribution.[333]

The journeys of the stockmen in search of locations for their tickets of occupation increased colonial awareness of the potential of the country beyond the settled districts. Exploration had not been specifically mentioned in Brisbane's instructions[334] but before he left Britain, Brisbane spoke of his hopes to explore the colony.[335] Once in New South Wales, Brisbane did not travel as widely as did Macquarie. He visited Bathurst in October 1822, Newcastle in January 1823, Port Macquarie and Moreton Bay in November 1824 but a proposed visit to Van Diemen's Land never took place.[336] Aside from these official excursions, Brisbane confined his tours to the settled districts.[337]

Although not personally active, Brisbane encouraged official and private exploration. One of his earliest orders was a coastal survey in the hope of discovering rivers with access to the hinterland.[338] Captain P.P.King had circumnavigated the continent three times but had not discovered a major new river.[339] Nevertheless, Brisbane was hopeful and the "Satellite" under Captain M.J.Currie was employed in coastal surveys during 1823.[340]

333. Bathurst to Darling, 2 April 1827, HRA i,XIII,224.
334. Macquarie's Instructions, 9 May 1809, HRA i,VII,192 had included a clause to encourage sea exploration.
335. J.Macarthur jr to E.Macarthur, 30 May 1821, Macarthur Papers ML A2911.
336. S.G., 18 October, 1 November 1822, 9, 16 January 1823, 11, 25 November, 9 December 1824; Brisbane to Sir Henry (Makdougall?), 23 March 1823, Brisbane Papers ML FM4/1626, Section 1.
337. L.Macquarie, "Journal of a Tour to the Cow Pastures and Illawarra, January 1822", entry 9-12 January 1822, in Journal of His Tours in New South Wales and Van Diemen's Land 1810-1822 (Sydney, 1956); A.Jose, "Sydney District in 1824 as described by a French Visitor", JRAHS, 10 (1924), p.225.
338. Brisbane to Craufurd, 14 February 1822, Brisbane Papers PRO PMG1/1.
339. Brisbane to Craufurd, 18 May 1822, ibid.
340. G.C.Ingleton, Charting A Continent. A Brief Memoir on the History of Maritime Exploration and Hydrographical Surveying in Australian Waters (Sydney, 1944), p.53.

Oxley was involved with routine work and troubled by ill-health[341] so he did little exploration. He was anxious to undertake further inland expeditions to solve the mystery of the inland river system[342] but he believed that the colonial secretary dispproved of this venture and doubted that, despite the governor's general interest, he would be allowed to undertake such a mission.[343] His northern coastal survey in late 1823 was a result of orders from the Colonial Office based on Bigge's suggestions for new penal establishments.[344] Oxley felt that the colonial government had little enthusiasm for this project[345] but his discovery of a large river at Moreton Bay changed this attitude.[346] Oxley's second expedition, also by sea, was in October 1825 on Brisbane's orders to explore Twofold Bay in the south coast to assess its potential as a harbour for the southern hinterland.[347]

Inland exploration during Brisbane's government was almost entirely due to private initiatives. During Brisbane's first summer in the colony, Charles Throsby, a settler who had made several journeys into the southern country since 1817, found an overland route to Jervis Bay on the south coast in December 1821.[348] In January 1822, the Sydney Gazette announced that Edward Riley had discovered a shorter route from Lake

341. J.Mitchell, Journal of a Voyage to New South Wales...7 April 1822 - 11 May 1823, University of Edinburgh Library DC7.123, pp.78-79,85-86.
342. Ibid., pp.85-86.
343. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.39.
344. Bathurst to Brisbane, 9 September 1822, HRA i,X,791-792.
345. Oxley to King, 20 April 1823, King Papers ML A1967.
346. Brisbane to Bathurst, 3 February 1824, HRA i,X1,215-225. See also Chapter 3.
347. Brisbane to Oxley, 13 October 1825, Letters to the Surveyor-General from the Private Secretary to the Governor 1823-1832, AONSW 2/1623.
348. S.G., 15 December 1821; Perry, op.cit., pp.98-100.

Bathurst to the Goulburn Plains which would assist settlement in the southern districts.[349]

Allan Cunningham in his semi-official capacity as botanical collector for Kew Gardens travelled widely beyond the settled districts. In the winter of 1823, in response to Brisbane's desire for information about the country north of Bathurst,[350] Cunningham discovered a pass through the Liverpool Ranges north of Mudgee to the grazing land of the Liverpool Plains. He also explored the headwaters of the Hunter and Goulburn Rivers, opening a route between the Hunter Valley and Bathurst.[351] A few months later, Archibald Bell junior, son of a prominent settler at Richmond, found an alternative and less hazardous crossing over the Blue Mountains.[352] The expedition of the acting engineer, John Ovens, and Captain Currie investigated south from Lake Bathurst to the grazing land of the Monaro in May and June 1823.[353]

In the spring and summer of 1824, attention turned to the southern districts again. On the suggestion of Alexander Berry, a prominent settler and merchant, Hamilton Hume and Captain William Hovell proposed an overland expedition to Bass Strait.[354] The pressure of increased immigration meant that there was insufficient known grazing land for both the established settlers and the new arrivals. Lack of easy transport to the new districts prompted Hume and Hovell to search for land in an area accessible by sea.[355] Hume was

349. S.G., 4 January 1822.
350. Cunningham to Goulburn, 1 March 1823, Cunningham's Correspondence with the Colonial Government 1817-1831 ML SZ13 (formerly ML A1749).
351. S.G., 10 July 1823; W.G.McMinn, Allan Cunningham, Botanist and Explorer (Melbourne, 1970), pp.52-60.
352. S.G., 9 October 1823.
353. Perry, op.cit., p.100.
354. W.Bland, Journey of Discovery to Port Phillip, New South Wales by Messrs W.H.Hovell and Hamilton Hume in 1824 and 1825 (n.d. and facsimile edition Adelaide, 1965), p.49.
355. Hume to Bathurst, 20 April 1826, CO 202/179, f.22.

born in the colony and had considerable experience in exploring the southern districts.[356] Although Oxley was against an expedition through country that he had dismissed as useless some years earlier, Brisbane was interested and approved the expedition. The colonial government provided horses and equipment. The journey took four months but Hume and Hovell returned with encouraging news that they had reached the southern coastline.[357] There was some scepticism about the quality of their discovery which dulled the immediate effect of their achievement.[358]

The exploration in the south and north-west was accompanied by a gradual relaxation in the restrictions on freedom of movement in the penal colony. Written passes had been required to travel beyond the Cow Pastures since 1820.[359] In September 1822, Cunningham applied for a pass to travel permanently "beyond the verge of the colony".[360] In March 1823, the track from Richmond to the mid-Hunter Valley was opened for general use but written permits were still required.[361] From mid-1823 special licences were no longer necessary to travel to the Illawarra to cut cedar.[362] Proposals were made for a new bridge across the Nepean River in the south to improve access to the new country beyond[363] and in 1824 licences to travel through the Cow Pastures to the southern districts were abolished.[364]

356. Perry, op.cit., p.100.
357. S.G., 7 October 1824, 27 January 1825; Bland, op.cit., p.ii, Appendix 1; Brisbane to Wilmot-Horton, 24 March 1825, HRA i,XI,555; Hume to Brisbane, 24 January 1825, HRA i,XII,643-644.
358. S.G., 17 February 1825.
359. Goulburn to Constables at the Cow Pastures, 5 November 1821, CSOL 4/3504A, p.24.
360. Cunningham to Goulburn, 9 September 1822, Cunningham's Correspondence with the Colonial Government 1817-1831, ML SZ13.
361. S.G., 6 March 1823; Goulburn to Constables at Windsor and Newcastle, 16 October, 4 December 1823, CSOL 4/3509, p.431,653.
362. S.G., 28 August 1823.
363. Ibid.
364. Perry, op.cit., p.103.

The explorers indicated the potential of an area but it was the settlers and their stockmen searching for grazing land who established its quality. As Cunningham discovered, the illiterate isolated stockkeeper on these locations knew more of the countryside than did the officials in Sydney.[365] Perhaps the most enduring contribution of the ticket of occupation was the incentive that it provided to open new territory. It was a virtual carte blanche for settlers to search for land that would suit their grazing needs. For the first time, the colonists were encouraged to show that the settlement was no longer physically nor mentally confined to the seaboard side of the Hawkesbury-Nepean River.[366]

This outward movement was evident in the ten per cent rise in the population living outside the Cumberland Plain during these four years.[367] The most dramatic increase was at the Hunter Valley and at Bathurst where new settlers selected their grants but the south-western districts also showed a marked increase whilst absolute numbers in the old areas actually declined slightly.[368]

Darling was concerned to restrain this outward movement to enable the machinery of government to keep pace with the growth of settlement.[369] Probably Brisbane would have eventually halted the unrestrained movement, though he had hoped to establish a settlement at Westernport.[370] He believed that the newly discovered areas contained sufficient land to meet the

365. McMinn, op.cit., p.62.
366. Agricultural Society's farewell address to Brisbane, Australian, 17 November 1825.
367. Perry, op.cit., Table 1, p.130.
368. Ibid.
369. Ibid., p.45.
370. Brisbane to Arthur, 1 September 1825, Arthur Papers ML A2166. Compare J.J.Eddy, Britain and the Australian Colonies 1818-1831 (Oxford, 1969), p.239 that Brisbane was reluctant to allow settlement to spread so far.

grazing needs of the settlers for several years and he feared the increased costs of administering such a widespread community.[371]

In land policy, Brisbane did not obey the wishes of the Colonial Office.[372] His policies were dominated by his general concern for the economical management of a convict settlement. Brisbane's scheme of attaching convicts to grants has been seen as a forerunner of Wakefield's proposals for closer settlement in the 1830s[373] but Brisbane was less interested in settlement and land use than in the practical task of making the settlers support convict labourers. Brisbane never appreciated the conflict between agriculture and grazing that others saw in his policies. He wished to encourage both intensive cultivation and pastoral expansion and in his grants with convicts attached, land sales and tickets of occupation he sought to make land available for whatever purpose the settler wished, provided the interests of the government were recognized. Although the Colonial Office feared that Brisbane did not encourage men with capital to invest in large-scale pastoral activities, the reality of his land policies showed that he did make land freely available to this group. Allegations that free settlers were ruined while former convicts acquired land easily were not substantiated.[374] By the close of his government, the era of the large free settler had been firmly established and this was reflected in the increasing economic significance of pastoral activities.

371. Brisbane, Replies to questions concerning New South Wales, 28 September 1830, Brisbane Papers ML FM4/1626, Section 1.
372. Compare J.J.Auchmuty, "1810-1830", in F.K.Crowley (ed.), A New History of Australia (Melbourne, 1974), p.79.
373. Shaw, op.cit., p.191.
374. Jacobs to Bathurst, 7 September 1822, HRA i,X1,52.

Chapter 6 - The Economic Situation.

The economic situation was dominated by Brisbane's determination to reduce expenses. In the face of widespread opposition, he imposed financial restrictions on the trading community and introduced new purchasing policies.

The expenses of New South Wales had long been a matter for concern. As transportation increased, so did expenses and Macquarie was unable to reduce these costs despite a decline in per capital convict expenses.[1] His critics, such as John Macarthur, blamed Macquarie's convict system for "wasteful expenditure".[2] Brisbane had no sympathy for Macquarie's failure to reduce expenses. He accused Macquarie of turning a blind eye to the malpractices of his officials and pointed to the "system of bribery and corruption" among commissariat clerks and storekeepers. Neither the natural resources nor the labour of the convicts had been adequately utilized to minimize expenses. The cost of the settlement had climbed from £37,000 to £230,000 during Macquarie's government and Brisbane anticipated that his changes would save £100,000.[3]

Brisbane's economic policy was influenced by his plan to introduce political economy.[4] He considered that it was his duty to reduce the charge of the colony on the British government but he acted without specific instructions to do so.[5] The advantages of a good climate, virtually unlimited land and access to large amounts of labour had been ignored by his

1. Macquarie to Bathurst, 16 May 1818, HRA i,IX,796-796; Macquarie to Bathurst, 1 September 1820, HRA i,X,368; A.G.L.Shaw, Convicts and the Colonies (Melbourne, 1977), pp.98-99; J.Ritchie, "John Thomas Bigge and His Reports on New South Wales", JRAHS, 60 (1974), pp.15-18.
2. J.Macarthur to J.Macarthur jr, 20 February 1820 in S.M.Onslow, Some Early Records of the Macarthurs of Camden (1914 and Adelaide, 1973), p.335.
3. Brisbane to (?), 13 December 1822, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Craufurd, 14 February, 9 March, 18 May 1822, Brisbane Papers PRO PMG1/1.
4. See Chapter 2.
5. Brisbane to Ferguson, 3 April 1823, Brisbane Papers Scott Collection, Bundle 6.

predecessors and he was confident that in activating this potential he would stimulate economic development.[6] Productivity must be increased, imported goods reduced and surplus items exported. He accepted Adam Smith's doctrine that the "produce of the soil" was the "principal source of the Revenue and Wealth of every country".[7]

> I have studied enough to be impressed with the belief, that the Wealth of a State consists of its surplus produce, and that a Nation will be better or worse supplied with all the necessaries as well as all the conveniences of Life, proportionate to the skill, dexterity and judgement with which its labour is generally applied. [8]

Frederick Goulburn accepted Brisbane's enthusiasm and after Brisbane's arrival he studied the works of theorists such as Adam Smith and David Ricardo.[9] Both Brisbane and Goulburn had philosophical inclinations[10] but neither was a practical businessman and Brisbane had failed to manage his personal finances.[11] When Brisbane and Goulburn introduced major economic changes, the colonists openly doubted whether either was competent to do so.[12] Wilmot-Horton and James Stephen queried the interpretation of political economy in New South Wales.[13] Bathurst himself favoured the older

6. Brisbane to Bruce, 18 March 1822, Brisbane Papers ML FM4/1626, Section 1.
7. Ibid. Compare A.Smith, The Wealth of Nations (1776 and Harmondsworth, 1970), p.466.
8. Brisbane to Craufurd, 18 May 1822, Brisbane Papers PRO PMG1/1. Compare Smith, op.cit., p.103,109.
9. Berry to (?), 10 January 1823, Berry Papers ML UCMSS 315/5. Probably both Brisbane and Goulburn read Wentworth's account of the colony which expressed many of the views of the political economists. W.C.Wentworth, Statistical, Historical and Political Description of the Colony of New South Wales (1819 and facsimile edition Adelaide, 1978), p.xi.
10. Both were members of the small New South Wales Philosophical Society. Philosophical Society of Australasia, "Minutes 1821-1822", Journal and Proceedings of the Royal Society of New South Wales, 55 (1921), Appendix.
11. See Chapter 1.
12. Berry to (?), 10 January 1823, Berry Papers ML UCMSS 315/5; J.Macarthur to J.Macarthur jr, 19 October 1823, Macarthur Papers ML A2899.
13. Wilmot-Horton to Douglass, 16 November 1824, CO 202/13, p.47; Stephen to Arthur, 29 April 1825, Arthur Papers ML A2164.

mercantilist doctrines and had little sympathy with the current fashion for political economy.[14]

The major economic initiative of Brisbane's government was the "dollar system", a radical alteration in the local currency and overseas remittances intended to throw the colonists onto their own resources. Opposition to the dollar system dominated nineteenth century discussions about Brisbane's government[15] and unravelling its complexities has absorbed the energies of modern economic historians.[16] Understanding the dollar system is critical for appreciating the interaction of economic developments under Brisbane's government.

Though motivated by Brisbane's determination to reduce colonial expenses, the dollar policy itself was probably devised by Goulburn[17] and the chief commissariat official, William Wemyss.[18] The commissariat was directly involved in the changes and the new policy could not have been introduced without its co-operation. Wemyss approved of Brisbane's attempts to reduce expenditure[19] and, in view of both Brisbane's and Goulburn's lack of financial experience, it is probable that Wemyss strongly influenced them.

No currency had been provided when the settlement was established and New South Wales suffered constantly from a

14. J.C.Beaglehole, "The Colonial Office 1782-1854", Historical Studies, 1 (1941), p.177; N.D.McLachlan, "Bathurst at the Colonial Office 1812-1827: A Reconnaissance", ibid., 13 (1969), p.481.
15. J.Atkinson, An Account of the State of Agriculture and Grazing in New South Wales (1826 and facsimile edition Sydney, 1975), p.133; J.Maclehose, Picture of Sydney and Strangers' Guide to New South Wales for 1839 (1839 and facsimile edition Sydney, 1977), pp.53-54; J.D.Lang, An Historical and Statistical Account of New South Wales (2 vols., London, 1934), Vol.1, pp.159-165.
16. B.Fitzpatrick, British Imperialism and Australia 1783-1833 (1939 and Sydney, 1971), pp.325-343; S.J.Butlin, Foundations of the Australian Monetary System 1788-1851 (1953 and Sydney, 1968), pp.143-189.
17. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.13; Berry to (?), 10 January 1823, Berry Papers ML UCMSS 315/5.
18. Maclehose, op.cit., p.53; Butlin, op.cit., p.144.
19. Wemyss to Harrison, 16 March 1822, T1/2150, No.24416.

chronic shortage of specie. In 1813, Macquarie created a colonial currency by mutilating Spanish silver dollar coins. A small piece cut from the centre of the coin, "the dump", was valued at 1s 3d and the larger, holey dollar was valued at 5s.[20] The coins in circulation were a variety of English coins, Indian rupees, Spanish silver dollars and Macquarie's holey dollars but shortages meant that most business was transacted with personal promissory notes issued by settlers and merchants. The colonial government paid for its supplies with store receipts. These were issued by the commissariat and were negotiable either for British Treasury bills or for dollars. The merchants accepted store receipts from the settlers in payment for goods and then exchanged them for Treasury bills. The Bank of New South Wales, established in 1817, issued bank notes, exhanged store receipts for bank notes or coin and consolidated store receipts for Treasury bills which it made available to merchants.[21]

The transferable store receipts, bank notes and limited coinage were suitable for colonial purposes.[22] For transactions outside the colony to pay for imported goods, more negotiable currencies were required. Personal notes could be drawn on agents in Britain by those with access to funds there but the most secure and convenient remittance was bills drawn on the Treasury.[23]

20. M. Phillips, A Colonial Autocracy (1909 and Sydney, 1971), pp.160-161.
21. J.T.Bigge, Report of the Commissioner of Inquiry on the State of Agriculture and Trade in the Colony of New South Wales (1823 and facsimile edition Adelaide, 1971), p.99,66; J.Atkinson, op.cit., pp.132-133; Butlin, op.cit., p.128.
22. Report of the Board of Investigation, 1 September 1820, in Macquarie to Bathurst, 15 March 1821, HRA i,X,426.
23. Bigge, Agriculture and Trade, p.99.

During 1819 and 1820, under Deputy Commissary General Drennan, the transferable store receipts were replaced by Drennan's own promissary notes. Administration of the new system was lax, if not fraudulent, and after a colonial inquiry in September 1820 the old store receipts were reintroduced.[24] Drennan was succeeded by Wemyss in mid-1821 and in April 1822, when Drennan was still unable to account for £6,000, he was sent to Britain under arrest.[25] After examining the procedures of Drennan and his predecessors, Bigge recommended a local metallic currency.[26] The introduction of the dollar system was, in part, a similar conclusion by Brisbane, Goulburn and Wemyss.[27]

In a despatch in September 1822, Brisbane announced that

> with a view to a diminution of the expences of the Colony, I have deemed it my duty to introduce a change in the payments made by the Commissariat. 28

The dollar policy was directed at two levels of the colonial economy using the central position of the commissariat. From late February-March 1822, in place of issuing store receipts or promissory notes, the commissariat paid for its purchases in Spanish silver dollars. In a parallel move, Treasury bills were severely restricted and the commissariat would only exchange them for dollars at less than their nominal value. The rapidity of these changes caused panic among the commercial and rural community.

Spanish silver dollars had been used as an international

24. Macquarie to Bathurst, 15 March 1821, HRA i,X,408-411; T.G.Parsons, "Public Money and Private Enterprise: The Administration of the New South Wales Commissariat, 1813-1820", JRAHS, 60 (1974), pp.1-11; "F.Drennan", ADB, Vol.1.
25. Brisbane to Bathurst, 6 April 1822, HRA i,X,629-630.
26. Bigge, Agriculture and Trade, p.99.
27. Butlin, op.cit., p.138. Bigge's report was not published until March 1823, a year after the dollar system had been introduced.
28. Brisbane to Bathurst, 2 September 1822, HRA i,X,729.

currency for much of the nineteenth century. In New South Wales, dollars had been accepted at a face value of 5s sterling each, though their actual silver value was between 4s 2d and 4s 4d. The higher valuation in New South Wales made dollar coins a profitable method of transferring capital to the colony.[29] Dollars became increasingly common and in 1819 prices and rewards were offered in dollars.[30]

By 1822, about $400,000 were in the colony.[31] Although Brisbane implied in one letter that the colonial government had imported dollars,[32] they had arrived in a number of private speculations and were purchased by the commissariat.[33] In April 1822, the Nimrod's bullion cargo of $67,553 was purchased by the commissariat.[34] There were accusations that the dollars had been sent from India so that high ranking officials there and in New South Wales could profit on the exchange.[35]

The difference between the actual silver value of the dollars and their inflated value had been paid by the colonial government when it consolidated colonial currencies into sterling Treasury bills. However, with more dollars in circulation, the government faced an increasing loss if it continued to exchange dollars on demand.[36] Brisbane refused to

29. President and Directors of the Bank of New South Wales to Brisbane, 10 May 1822, HRA i,X,730-733; Butlin, op.cit., p.147, fn.17.
30. Butlin, op.cit., pp.140-141.
31. Ibid., pp.146-147, fn.18. Berry estimated dollar imports of almost $200,000 in early 1822 alone. Berry and Wollstonecraft to Naylor, 10 April 1823, Berry Papers ML UCMSS 315/27.
32. Brisbane to (?), 13 December 1822, Brisbane Papers ML FM4/1626, Section 1.
33. President and Directors of the Bank of New South Wales to Brisbane, 10 May 1822, HRA i,X,731; "Subscriber", S.G., 2 August 1822; Butlin, op.cit., p.147, fn.18. In 1824, when the matter was raised in the House of Commons, the British government stated that the colonial authorities had not imported dollars. P.P., 1824, Vol.XVI, p.493. But compare J.Atkinson, op.cit., p.133 and Fitzpatrick, op.cit., p.326 that the colonial government imported dollars.
34. S.G., 12 April 1822; Spring and Drinkwater to Lords of the Treasury, 30 June 1823, with encls., T1/2208, No.14232.
35. Berry to (?), 10 January 1823, Berry Papers ML UCMSS 315/5; Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.16; Butlin, op.cit., p.143.
36. Fitzpatrick, op.cit., p.330.

maintain this virtual subsidy of nearly twenty per cent. In April 1822, without advance notice, the colonial government ceased to accept the 5s valuation and would only exchange dollars at 4s 2d, although it continued to pay for government purchases in dollars at the old valuation.[37]

The large number of dollars in circulation enabled the colonial government to convert the economy to a dollar standard. During the ensuing months, it consolidated the new system in the face of virulent and sustained opposition. There was an immediate outcry against the sudden depreciation of the currency and the devaluation of property by almost twenty per cent. On 10 May 1822, the colonial government retreated slightly by declaring that it would receive colonial duties and quit rents in dollars at 5s each[38] but at the end of the month it announced that it would pay $2 for a bushel of wheat or twenty-four pounds of fresh meat delivered at the government store.[39] This replaced the old fixed price of 10s per bushel and, although no valuation was given, was a clear statement of the government's intention to pay in dollars.[40]

In June 1822, Macquarie's 1816 proclamation declaring sterling currency as legal tender was revoked.[41] In July and November 1822, the holey dollars and dumps were recalled for exchange into Treasury bills and were subsequently re-issued as quarter and three-quarter dollars.[42] From November 1822, the commissariat no longer recognized receipts in sterling[43] and

37. President and Directors of the Bank of New South Wales to Brisbane, 10 May 1822, HRA i,X,731-732.
38. S.G., 10 May 1822.
39. S.G., 31 May 1822.
40. Butlin, op.cit., p.148.
41. S.G., 28 June 1822.
42. S.G., 26 July, 15 November 1822; Butlin, op.cit., pp.150-151.
43. S.G., 29 November 1822.

from February 1823, colonial accounts were kept in dollars. Dollars would be accepted for colonial dues at a fluctuating rate determined by the highest premium for Treasury bills tendered to the commissariat, superseding the order of May 1822 that dollars would be accepted at 5s for these dues. Salaries paid from the colonial revenue would be issued in dollars at a rate of $5 to £1 sterling or 4s each.[44] The first act of the new legislative council in 1824 ensured the legality of the dollar system.[45]

The major advantage of the new system was the reduction of government expenses. Government purchases dominated the local market and wheat and meat had been supplied at a price fixed by the government rather than by competitive tender.[46] By devaluing the dollar to 4s 2d, the colonial government effectively reduced the price of the goods that it purchased. Conversion of the old fixed price of wheat from 10s per bushel to $2, now valued at only 8s 4d, saved the government 1s 8d per bushel, nearly seventeen per cent.[47]

Opposition to the dollar system was directed from the Bank of New South Wales but antagonism was widespread. John Piper, the Naval Officer, was president of the bank but after an initial protest under his signature[48] the campaign was led by the senior director, Edward Wollstonecraft, a prominent merchant.[49] Representations against the new system were made to the governor by the bank directors, collectively and

44. S.G., 6 February 1823.
45. Brisbane to Bathurst, 3 November 1824, encl., HRA i,XI,408.
46. See below.
47. President and Directors of the Bank of New South Wales to Brisbane, 10 May 1822, HRA i,X,732; Butlin, op.cit., p.149.
48. President and Directors of the Bank of New South Wales to Brisbane, 10 May 1822, HRA i,X,730-733.
49. President and Directors of the Bank of New South Wales to Goulburn, 30 May 1822, ibid., pp.735-738; "E.Wollstonecraft", ADB, Vol.2.

individually,[50] and by other settlers. Sir John Jamison and Alexander Berry suggested to Brisbane that the landowners and merchants would buy the dollars held by the commissariat if the colonial government would revert to sterling.[51] Berry, one of the most vitriolic critics, had recommended dollar imports as a safe and profitable speculation and he may have lost heavily with the devaluation.[52]

By late July 1822, these protests had achieved nothing and a petition was drawn up under Wollstonecraft's leadership.[53] It was signed by 234 merchants, officials, large and small landowners, both free and former convict, evidence of the widespread dislike of the new system, and presented to Brisbane in late August 1822.[54] The petition complained of the depreciation of property, the substitution of a "foreign coin of doubtful and fluctuating value", the problem of overseas remittance in bullion, legal complications in contracts drawn up in the old currency and lack of security. There was a lightly veiled threat that the new policy would prevent settlers from supporting convicts. If the colonial government was determined to reduce expenses, the settlers offered to co-operate in other measures if the old system of store receipts was restored.[55] Jamison and John Oxley favoured straightforward

50. President and Directors of the Bank of New South Wales to Goulburn, 30 May 1822, HRA i,X,735. As well as Piper and Wollstonecraft, the other directors were the merchants William Walker, Thomas Macvitie and Prosper de Mestre and two officials, John Oxley and D'Arcy Wentworth. Minutes of Meeting, 1 February 1822, Bank of New South Wales Board Minutes 1819-1824, Old Bank No.2, Bank of New South Wales Archives, Sydney.
51. Minutes of a conversation between Brisbane and Jamison, 20 July 1822, CSIL 4/1761, f.78 ff.; Berry to (?), 10 January 1823, Berry Papers ML UCMSS 315/5.
52. Berry to Berry, 12 February 1822, Berry Papers ML UCMSS 315/6.
53. Wollstonecraft to Goulburn, 7 August 1822, CSIL 4/1761, f.99. There were implications that Brisbane had requested that opposition to the dollar policy be collated in a petition. Minutes of a conversation between Brisbane and Jamison, 20 July 1822, ibid., f.78 ff.
54. S.G., 30 August 1822. The three bank directors who were senior government officials did not sign it. See also Chapter 7.
55. Brisbane to Bathurst, 2 September 1822, encl., HRA i,X,738-744.

price cuts which the agricultural community would accept in preference to currency alterations.[56]

Criticism of the dollar policy concentrated on its effect on the role of the Bank of New South Wales and the alteration to import/export trading caused by the reduction of Treasury bills. The Bank of New South Wales had been established in 1817 under the patronage of Macquarie who had issued a seven-year charter guaranteeing limited liability. The bank had a capital of £20,000 in shares of £200 and was managed by a board of seven directors elected yearly by the stockholders. The bank issued notes for 2s 6d, 5s, 10s, £1 and £5.[57]

Since the failure of Drennan's promissory notes in late 1820, the bank's notes had become the major circulating medium.[58] Although the store receipt system had been restored in September 1820, most government payments during 1821 had been made in Treasury bills or bank notes.[59] Drennan had attacked the bank and, despite his removal, relations between the bank and the commissariat were strained.[60] There were fears that Brisbane might not support the bank as Macquarie had done and Alexander Berry asserted that the currency alterations were deliberately intended to destroy the Bank of New South Wales because Goulburn wished to ruin Macquarie's achievements.[61] Goulburn certainly showed little sympathy

56. Jamison to Bathurst, 2 September 1822, CO 201/111, f.365 ff.; Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.15.
57. Bigge, Agriculture and Trade, pp.65-67; Butlin, op.cit., pp.110-117.
58. "Mercator", S.G., 19 July 1822; Butlin, op.cit., p.122; Bigge, Agriculture and Trade, p.66.
59. "Mercator", S.G., 19 July 1822.
60. Butlin, op.cit., p.145.
61. Berry to (?), 10 January 1823, Berry Papers ML UCMSS 315/5; Butlin, op.cit., pp.143-145.

for the bank which he considered to be "isolated from the general interest of the Country".[62]

At first the bank accepted dollars as deposits but by early May it became concerned that the government would not consolidate the dollars on demand.[63] Wemyss would not reassure it as to when the government would accept the dollars.[64] The bank requested the government to close its account and issued a statement that it would not accept dollars until their value was fixed.[65] In a strong letter to the governor, the bank directors acknowledged that the dollar had circulated above its real value. While there were few dollars in the colony this had not mattered but with the "alarming" import of dollars in recent months it was clear that the nominal value would cause great losses and the dollar must fall to its real value. The directors argued that the government should declare a "specific nominal value" for the dollars rather than change from sterling to a fluctuating currency.[66]

In essence, the conflict was whether the government or the bank would carry the losses for the fall in value of the dollars. Goulburn's reply was "a nice esaay in evasion"[67] which did not restore confidence.[68] The bank protested that it would be the major loser under the new system:

62. Goulburn to President and Directors of the Bank of New South Wales, 16 May 1822, HRA i,X,735.
63. Minutes of Meeting, 1 May 1822, Bank of New South Wales Board Minutes 1819-1824, Old Bank 2, Bank of New South Wales Archives, Sydney.
64. Minutes of Meeting, 2 May 1822, ibid.
65. Ibid.; S.G., 3 May 1822.
66. President and Directors of the Bank of New South Wales to Brisbane, 10 May 1822, HRA i,X,730-733.
67. Fitzpatrick, op.cit., p.331.
68. Goulburn to President and Directors of the Bank of New South Wales, 16 May 1822, HRA i,X,733-735.

> The Bank, if it fulfils its engagements with honour, must pay the Dollar at its intrinsic Sterling value, and not its assumed one; consequently the Bank loses the difference between 4s 2d and 5s or 16 2/3 per cent, upon all the Spanish Dollars they have received in the Course of business from the Commissariat at 5s each, and it is undeniable that, unless the Merchant, Importer, and their foreign correspondents consent to receive them at the same Nominal value, the loss must fall upon the Bank. [69]

The bank was vulnerable because it was the largest holder of dollars.[70] Its sense of persecution was increased by the rejection of its bid to exchange $30,000 for Treasury bills though others had exchanged dollars and even received Treasury bills for purchases.[71] Eventually the bank was forced to accept dollars. By mid-June 1822, it accepted dollars at 4s 2d as payment for due bills and within a few weeks had decided to issue its own notes in dollars and use dollar coins for its transactions.[72]

The role of the Bank of New South Wales was widely discussed in the Sydney Gazette. "A Subscriber", probably the merchant G.T.Savage,[73] commented that

> the true cause of the Government purchasing these dollars was to separate themselves from the Bank, which...was going beyond its depth; and which from the great proportion of public money that necessarily passed through it for the want of another circulating medium, became in a manner identified with the Government. [74]

It was not a matter of preferring Spanish coins to sterling, a subject for patriotic outburst by some critics,[75] but of dollars rather than bank notes. "A Subscriber" doubted that

69. President and Directors of the Bank of New South Wales to Goulburn, 30 May 1822, HRA i,X,737.
70. Compare dollars tendered for exchange, July 1822, CSIL 4/1753, f.139 ff.
71. President and Directors of the Bank of New South Wales to Goulburn, 30 May 1822, HRA i,X,737-738.
72. Minutes of Meeting, 11 June, 9, 18 July 1822, Bank of New South Wales Board Minutes 1819-1824, Old Bank No.2, Bank of New South Wales Archives, Sydney.
73. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.21.
74. "A Subscriber", S.G., 28 June 1822.
75. "Reply to Mercator", S.G., 31 May 1822.

that the Bank of New South Wales could pay on demand even one-third of its notes in sterling.[76] T.C.Harington, a clerk with the commissariat who later became assistant colonial secretary, agreed.[77]

Wemyss believed that the lack of specie had stimulated the expansion of the bank and in March 1822 he requested the Treasury to send consignments of dollars because

> the issue of paper...from that establishment has been so excessive, that I an not without serious apprehension that it may sooner or later be cause of much evil. [78]

Brisbane's reply to the petition against the dollar system criticized the bank. Any plans to reduce colonial expenses would be "illusory" until the colonial currency had lost its "extraordinary singularity". Paper notes must be at par with the metallic currency and this required strict control of paper issue. Brisbane accused the bank of excessive paper issue and blamed it for the initial over-valuation of the dollar. The bank had too much influence for an institution only five years old. The colonial government by exchanging Treasury bills at par with Sydney bank notes had been paying a bounty of nearly twenty per cent. This increased local demand for Treasury bills and raised the price of goods purchased by the government. Brisbane would not tolerate such a situation. He regretted that the change would depreciate property but refused to retreat from such an essential measure.[79]

76. "A Subscriber", S.G., 2 August 1822.
77. "Mercator", S.G., 19 July 1822. Identification of "Mercator" as Harington by Oxley. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.21; "T.Harington", ADB, Vol.1.
78. Wemyss to Harrison, 16 March 1822, T1/2150, No.24416.
79. Brisbane's reply, S.G., 30 August 1822; Brisbane to (?), 13 December 1822, Brisbane Papers ML FM4/1626, Section 1.

Macquarie had no authority to issue the bank's charter and Bigge recommended that it be revoked and the bank reconstituted as a commercial partnership.[80] In February 1823, the directors approached Brisbane to renew the charter which was due to expire in early 1824.[81] A committee of stockholders drafted a new charter which increased the bank's capital from £20,000 to £30,000.[82] After discussions with the colonial government, possibly over a full dollar standard,[83] the new charter was signed in October 1823 to take effect from January 1824.[84]

Despite the conflict between the colonial government and the bank over the dollar system, Brisbane and Goulburn agreed to renew the bank's charter.[85] This was done not simply in anticipation of Bigge's criticism[86] but in full knowledge of his disapproval because his third report had arrived the week before the charter was signed.[87] Though Brisbane was specifically instructed not to grant a new charter, he did not rescind it nor did he inform Bathurst until eighteen months later.[88]

Brisbane's attempt to restrain the paper issued by the Bank of New South Wales was only temporarily successful. During 1822, bank notes in circulation fell from £27,000 to

80. Bigge, Agriculture and Trade, p.67.
81. Minutes of Meeting, 11, 19 February 1823, Bank of New South Wales Board Minutes 1819-1824, Old Bank No.2, Bank of New South Wales Archives, Sydney.
82. Minutes of Meeting, 12, 26 March 1823, ibid.
83. S.G., 24, 31 July 1823.
84. Minutes of Meeting, 4 July 1823, Bank of New South Wales Board Minutes 1819-1824, Old Bank No.2, Bank of New South Wales Archives, Sydney; Minutes of Meeting, 20 August 1823, ibid., Old Bank No.3; Charter of the Bank of New South Wales, 31 October 1823, ML *D168.
85. Piper to Brisbane and Goulburn, 26 November 1823, Charter of the Bank of New South Wales ML *D168, p.1. Compare Butlin, op.cit., p.117, fn.39 for a later claim that the charter was renewed against Goulburn's advice.
86. Butlin, op.cit., p.117.
87. S.G., 23 October 1823.
88. Bathurst to Brisbane, 31 July 1823, HRA i,X1,100; Brisbane to Bathurst, 14 May 1825, ibid., p.586.

£13,000 and remained at this level in 1823; however, by 1825 the amount had escalated to £20,000-£25,000.[89] Only £9,360 of the increased capital of £30,000 had been paid up by December 1825 compared with £12,600 paid up capital in the old bank.[90] Bank loans increased from £42,000 in May 1825 to £63,000 by the end of the year in response to local demands for capital.[91] By May 1826, the bank was in serious financial difficulties and required a government loan of £20,000.[92] An inquiry revealed that the directors had discounted bills and issued notes to ten times its capital.[93]

The second impact of the dollar system was the restriction of Treasury bills. British Treasury bills had always exchanged at par in New South Wales and the increase in government expenditure for the support of convicts after the Napoleonic Wars provided the colonists with ready access to Treasury bills. Few settlers made serious efforts to find alternative methods for overseas remittances such as developing exports.[94] Imports also increased steadily and some observers believed that the demand for Treasury bills to pay for these must create a premium on the bills that were available.[95]

British expenses in the colony could be reduced only if the colonial government drew fewer Treasury bills. Demand for

89. Colonial Returns 1822, 1823 and 1825. (Amounts for 1823 and 1825 originally in dollars - $62,304 and $100,000 respectively.); Butlin, op.cit., Tables 1 a and b, p.586,589.
90. Butlin, op.cit., Table 10, p.615.
91. R.F.Holder, Bank of New South Wales. A History (2 vols., Sydney, 1970), Vol.1, p.65.
92. Darling to Bathurst, 20 May 1826, HRA i,X11,296-308.
93. Report on the Bank of New South Wales, 12 May 1826, ibid., p.305.
94. J.Macarthur to Davidson, 3 September 1818 in S.M.Onslow, Some Early Records of the Macarthurs of Camden (1914 and Adelaide, 1973), p.317; J.Macarthur to J.Macarthur jr, 20 February 1820, ibid., p.335; Berry to (?), 10 January 1823, Berry Papers ML UCMSS 315/5.
95. (?) to (Wollstonecraft?), n.d.(early 1821?), Berry Papers ML UCMSS 315/18.

Treasury bills to pay for imports had increased the colonial government's Treasury bill expenditure to three times the amount actually needed to pay for its purchases.[96] Wemyss believed that since the settlers had the advantage of a fixed price for the items sold to government, the best method to reduce government expenses was to charge a premium on Treasury bills. Payment in a metallic currency was an essential prerequisite.[97]

Treasury bills were drawn only for essential expenditure and by May 1822 there was a shortage of bills.[98] The government paid in dollars, exchanged only a few Treasury bills and would not accept bank notes or other colonial currencies.[99] The reduced number of Treasury bills commanded a premium as merchants and settlers competed to purchase them from the commissariat. In June 1822, the commissariat called tenders for Treasury bills in dollars at 5s with a flat premium of 2.5 per cent (equivalent to a dollar valuation of 4s 10½d) until the sailing of the Shipley. Since demand would exceed the number of dollars that the commissariat wished to buy, the offers would be proportioned among the bills available.[100]

Following the departure of the Shipley in September 1822, Wemyss suggested that tenders for Treasury bills be advertised at a competitive and fluctuating premium.[101] His suggestion was adopted in November 1822 and £10,000 of Treasury bills were sold

96. Brisbane's reply, S.G., 30 August 1822.
97. Wemyss to Harrison, 16 March 1822, T1/2150, No.24416.
98. "A Subscriber", S.G., 9 August 1822; President and Directors of the Bank of New South Wales to Brisbane, 10 May 1822, HRA i,X,732.
99. President and Directors of the Bank of New South Wales to Brisbane, 10 May 1822, HRA i,X,732; President and Directors of the Bank of New South Wales to Goulburn, 30 May 1822, ibid., p.738.
100. S.G., 7 June 1822; Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.18.
101. Wemyss to Brisbane, 30 September 1822, CSIL 4/1757, f.79.

for the most advantageous offer.[102] Initially the premium was eight to ten per cent[103] but in the first quarter of 1823 high demand forced premiums as high as twenty-five per cent.[104]

Many settlers had serious problems in remitting funds to England. The lack of insurance cautioned most merchants against shipping dollars as bullion[105] but Alexander Berry considered that if premiums continued over twenty per cent he would have to export dollars.[106] R.L.Murray estimated that $90,000 had left the colony, large amounts were hoarded and only half the dollars that had been in the colony when the system was introduced were still in circulation by February 1823.[107]

The commissariat was aware that large numbers of dollars were being exported and requested the Treasury to supply additional bullion.[108] Murray calculated that the optimum premium was fifteen per cent which would keep the dollars in circulation at a value of 4s 4d.[109] During 1824 and 1825 premiums fell to about this level as merchants and settlers found alternative means of remitting but the price of bills remained a source of discontent throughout the period.[110]

102. Goulburn to Wemyss, 9 November 1822, CSOL 4/3506, p.424; S.G., 15 November 1822.
103. S.G., 22 November 1822.
104. H.Macarthur to King, 31 January, 18 April 1823, King Papers ML A1976; Minutes of Meeting, 12 March 1823, Bank of New South Wales Board Minutes 1819-1824, Old Bank No.2, Bank of New South Wales Archives, Sydney; Wemyss to Bayly, 2 May 1823, Potts Papers ML A329; Butlin, op.cit., p.156, fn.59.
105. H.Macarthur to King, 18 April 1823, King Papers ML A1976.
106. Berry to (?), 10 January 1823, postscript 28 January 1823, Berry Papers ML UCMSS 315/5.
107. Murray to Goulburn, 22 February 1823, CSIL 4/1764, f.57; "R.Murray", ADB, Vol.2.
108. Wemyss to Harrison, 15 April 1823, T1/2231, No.21603.
109. Murray to Goulburn, 22 February 1823, CSIL 4/1764, f.57; Butlin, op.cit., p.148, fn.18.
110. Butlin, op.cit., p.156, fn.59.

Brisbane did not disguise the unpopularity of the dollar policy but beyond claiming that it would reduce government expenses he supplied the British government with few details.[111] Nevertheless, the Colonial Office and the Treasury accepted his changes. Commissary payments in New South Wales had been a long-standing problem, highlighted by the fraudulent activities of Drennan. The Treasury had always disliked the store receipt system and the government-fixed prices, so it did not object to the commissariat paying in dollars, provided notice of the change had been given and government purchases were made by tender.[112]

The Colonial Office agreed, though Bathurst did not approve of colonial governors altering local currencies without direct orders because of the possibility of serious mistakes. He declined to intervene in Brisbane's changes unless there was evidence of corruption. Colonial opposition was dismissed as resentment at losing a profitable exchange rate and the continuing bitterness of the colonists made little impact at the Colonial Office.[113] The Treasury and the Colonial Office referred only casually to the change in policy,[114] probably satisfied by Wemyss's regular comments that the dollar policy reduced colonial expenses.[115]

~~The least successful aspect of~~ The new policy was least successful in providing a circulating medium. Confusion and anger were kept alive by

111. Brisbane to Bathurst, 2 September 1822, with encls., HRA i,X,729-744.
112. Hill to Wilmot-Horton, 25 March 1823, CO 201/144, f.224. Though the enclosures to Brisbane's despatch made it clear that no notice had been given and purchases were still by fixed price.
113. Wilmot-Horton to Harrison, 31 March 1823, CO 202/11, pp.64-65; Bathurst, Minute, n.d., CO 324/75, f.11,14. There were accusations of corruption. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.16; Berry to (?), 10 January 1823, Berry Papers ML UCMSS 315/5.
114. Herries to Wemyss, 28 August 1824, WO 58/116, p.219.
115. Wemyss to Harrison, 16 March 1822, T1/2150, No.24416; Wemyss to Harrison, 27 March, 15 April 1823, T1/2231, Nos.21598,21603.

the government's failure to fix a rate of exchange between the dollar, sterling and colonial currencies. The dollar might have been accepted if, as both Brisbane and Forbes suggested, it was used only for internal purposes.[116]

Exchange rates were generally specified in each transaction. For everyday calculations the old 5s valuation was used and merchants increased their prices to cover the difference.[117] Officials paid from colonial revenue received their dollars at 4s, effectively a wage increase, while the soldiers received less, being paid in dollars valued at 4s 8d to 4s 10d each.[118] Government accounts were kept in dollars but some transactions were required by law to be in sterling so those amounts had to be converted to dollars for the accounts.[119] All wages were described in sterling and then accounted in dollars.[120] Colonial officials who were paid by parliament or whose fees were specified in sterling, such as the surveyor-general, refused to accept dollars and the colonial government acquiesced in their stand.[121] The provost marshall would only receive dollars at 4s because of losses caused by fluctuating values.[122] The Sydney Gazette continued to publish market prices in sterling, rewards and wages were offered in either

116. Brisbane to Bathurst, 9 February 1825, HRA i,X1,518; Forbes to Wilmot-Horton, 29 June 1825, Catton Papers, Derby.
117. e.g. sale of a brewery for £4,000 in dollars at 5s rather than a price of $16,000. S.G., 20 May 1824; Forbes to Wilmot-Horton, 29 June 1825, Catton Papers, Derby; J.Atkinson, op.cit., p.135.
118. A salary of £100 paid in dollars at 4s each would be $500 whereas the same salary paid in dollars at 5s each would be only $400. Goulburn to Wemyss, 20 Jun 1822, CSOL 4/3505, p.411; Wall to Wemyss, 24 March 1823, CSIL 4/1770, f.181; Murray to Erskine, 12 December 1822, T1/2232, No.21889; Forbes to Wilmot-Horton, 29 June 1825, Catton Papers, Derby; J.Atkinson, op.cit., pp.134-135; Butlin, op.cit., pp.153-154.
119. Butlin, op.cit., pp.153-154,161.
120. e.g. in the Colonial Fund for 1824, a typical entry was five district constables paid at £30 each, a total of £150 which was converted to $750 for the accounting. S.G., 3 October 1825.
121. Minute, Harpur to Goulburn, 15 January 1823, CSIL 4/1770, f.33.
122. S.G., 10 June 1824.

currency and even the commissariat's lists of wheat tenders gave sterling prices.[123]

Despite the increased circulating medium, barter continued though this was as much an indication of the simplicity of the market structure as of the lack of currency.[124] Throughout the 1820s, merchants advertized that they would accept grain, wool and most agricultural products at market prices either as payment for debts or in exchange for goods.[125] Bartering was also used to acquire export cargoes.[126] Private bills and company notes circulated with bank notes and coins throughout the period.[127]

In September 1824, Brisbane convened a board of commissariat officials to fix a rate of exchange. The board recommended a value of 4s 4d for the dollar but pointed out that most conversion problems would be removed if the value of goods declared for the ad valorem import duty was given in dollars rather than sterling.[128] No immediate action was taken but in May 1825 two government orders specified an exchange rate of 4s 4d for sterling payments fixed by parliament or by colonial regulations. The first notice based the value on the average exchange of dollars for Treasury bills and included a plea for government officials to accept dollars at this rate.[129] The second order a week later based the 4s 4d valuation on the mint value of the silver.[130] Although this

123. Butlin, op.cit., pp.157-161; Coach fares to Bathurst, 20s. S.G., 10 June 1824; Wheat tenders, S.G., 13 March 1823, supplement.
124. J.Atkinson, op.cit., p.135.
125. Parr's advertisement, S.G., 3 May 1822; Levey's advertisement, S.G., 9 December 1824; Butlin, op.cit., pp.140-141.
126. Buchanan to Bowman, 28 July 1825, Buchanan Papers Vol.2, Macarthur Collection ML A4267.
127. Butlin, op.cit., p.159,468.
128. Report of the Board of Officers, 21 September 1824, HRA i,X1,668-669.
129. S.G., 5 May 1825.
130. S.G., 12 May 1825.

rate was generally approved,[131] it applied to government transactions only and not to general commerce.[132]

In Britain, the general problem of colonial currencies was under discussion by parliament. Brisbane was aware of this and delayed further steps in his dollar policy in anticipation of changes from Britain.[133] In May 1825 there were rumours that the British government would establish a sterling system.[134] Bathurst's despatch of 5 June 1825 included an order-in-council of March 1825 which fixed a sterling exchange rate for the Spanish dollar and other colonial currencies. The value of the dollar was the same as that determined in the colony, 4s 4d. In addition, the despatch stipulated a premium of only three per cent on Treasury bills. A shipment of British coins was despatched to New South Wales and the economy gradually returned to a sterling system.[135]

As well as altering the currency, the dollar system involved changes in government purchasing policy which seriously affected the stability of the colony's internal market. Traditionally the commissariat supplied the military forces but in New South Wales it obtained and issued stores and provisions to convicts and civil officials as well.[136] Commissariat officials were appointed in Britain and were responsible to the commissary-in-chief. Though the governor had greater control over them than was normal elsewhere,

131. S.G., 12 May 1825.
132. Australian, 12 May 1825.
133. Brisbane to Bathurst, 9 February 1825, HRA i,X1,518.
134. Australian, 12 May 1825.
135. Bathurst to Brisbane, 5 June 1825, with encl., HRA i,X1,635-638; Butlin, op.cit., pp.161-163.
136. Parsons, "Public Money", p.2.

Macquarie was warned not to interfere in commissariat affairs.[137] Nonetheless, Drennan was dismissed for his lack of respect toward Macquarie[138] and his successor, William Wemyss, was instructed to give "implicit obedience" to the governor.[139]

Unity among Brisbane, Goulburn and Wemyss to reduce government expenses resulted in the dollar system but this co-operation did not continue. The colonial secretary fixed the exchange rates without consulting the commissariat, rations were varied without notifying the purchasing officials and Goulburn and Wemyss quarrelled over the influence of H.G. Douglass.[140] An unusually honest and correct man, Wemyss's management of the commissariat, especially his purchasing policies, created opposition to Brisbane's government.[141]

By the close of the Macquarie period, only one-third of the population was supplied with government rations. This meant that there was a substantial private market for foodstuffs.[142] However, during the early years of Brisbane's government, the proportion victualled by the government had increased and was higher than it had been for a decade.[143] Discounting the 1822 population figures as inaccurate, the proportion rationed climbed from thirty-three per cent in 1819 to forty per cent in 1821 and 1823 as shown in Table 18. Though sixty per cent of the population was fed by private suppliers, commissariat purchases were an important factor in

137. Parsons, "Public Money", p.2; B.H.Fletcher, Landed Enterprise and Penal Society (Sydney, 1976), p.139.
138. Harrison to Drennan, 7 September 1820, WO 58/116, p.99.
139. Harrison to Wemyss, 31 August 1820, ibid., pp.97-98.
140. Goulburn to Wemyss, 20 June 1822, CSOL 4/3505, p.411; Wemyss to Brisbane, 14 February 1823, CSIL 4/1766, f.98; Wemyss to Brisbane, 15 December 1822, CSIL 4/1763, f.75. See also Chapters 2 and 7.
141. Brisbane to Bruce, 17 April 1824, Brisbane Papers ML FM4/1626, Section 1; Darling to Murray, 20 November 1828, HRA i,XIV,473. For the characters of other commissariat officials see Parsons, "Public Money", pp.1-2.
142. Fletcher, op.cit., p.191 ff., Appendix 8, p.236.
143. Ibid., p.236.

the colonial economy. The fall in the number of rations issued after 1822 reflected policies to cut government expenses such as the reduced price of supplies,[144] uniform distribution of rations,[145] commutation of ration wages for cash[146] and the reduction then abolition of rations for new settlers.[147] By 1824, these economies had reduced the commissariat's share of the market to below the 1819 level.

Table 18. Rations Issued, 1819-1825.[148]

Year	Population	Rations Issued	% on Rations	Number off Stores	% off Stores
1819	26,026	8,600	33.1	17,426	66.9
1820	n.a.	10,385	n.a.	n.a.	n.a.
1821	29,783	12,109	40.7	17,674	59.3
1822	24,188	11,579	47.9	12,609	52.1
1823	28,333	11,220	39.6	17,113	60.4
1824	33,595	10,633	31.7	22,962	68.3
1825	36,219	10,633	29.4	25,586	70.6

Of some 160 settlers who sold wheat to the commissariat in December 1821, only one, Gregory Blaxland, was a settler of rank. The others were smaller farmers from the Hawkesbury, Airds, Appin and Minto.[149] The larger settlers grew barely enough grain for their own consumption,[150] which perhaps accounted for their unwillingness to pay for the clearing gangs

144. See below.
145. Board of Inquiry into the system of rations, 14 August 1824, HRA i,X1,667.
146. S.G., 22 December 1821, 10 June 1824, 6 January 1825.
147. Bathurst to Brisbane, 6 November 1824, HRA i,X1,413.
148. Figures for 1819-1820 from Fletcher, op.cit., p.236; Population figures from 1821 Muster, HRA i,X,575, 1824 Muster, CSIL 4/1775, f.140 and Colonial Returns 1822, 1823 and 1825. Ration figures for 1821-1824 are averages from Brisbane to Bathurst, 3 June 1825, encl., HRA i,X1,623; Ration figure for 1825 is an estimate based on Brisbane to (?), 13 May 1825, Brisbane Papers ML FM4/1626, Section 1.
149. S.G., 22, 29 December 1821.
150. H.Scott to A.Scott, 8 May 1824, Scott Papers ML A2264; Berry to Wyatt, 26 November 1825, Berry Papers ML UCMSS 315/5; J.Atkinson, op.cit., pp.55-56.

in grain.[151] Though Oxley considered that wheat-growing by small farmers was not economically viable,[152] they supplied three-quarters of the colonial market. Lack of storage facilities and financial insecurity made them vulnerable to changes in the market.[153]

The larger settlers appeared more frequently among those who sold fresh meat to the commissariat.[154] D'Arcy Wentworth had concentrated on the meat market for a number of years[155] as had P.P.King who sold 89,000 lbs of beef to the government in 1821 alone, earning £1,854.[156] Gregory Blaxland and William Lawson were major suppliers of fresh meat and believed that their sales had reduced its price.[157] Other settlers, such as John Macarthur, sold meat in smaller quantities.[158] Robert Townson advertised to butchers when he had stock available for slaughter.[159] Merchants also sold regularly to the commissariat either because they grazed stock or to dispose of produce received as payment for goods or debts.[160]

As well as providing an income, the commissariat's payments were the source of the colony's currency. The circulation of store receipts and later dollars and their consolidation into Treasury bills tied the merchants and settlers to the commissariat:

151. See Chapter 3.
152. Fletcher, op.cit., pp.190-191.
153. J.Atkinson, op.cit., pp.53-54.
154. Fletcher, op.cit., p.182; S.G., 27 December 1822, 2 January, 20 March 1823.
155. W.Wentworth to D.Wentworth, 25 May 1818, Wentworth Papers ML A756; S.G., 27 March 1823.
156. King to Brisbane, 22 July 1822, King Papers ML A1976. Value calculated at the fixed price of meat, 5d per lb.
157. Blaxland to Goulburn, 20 September 1824, CSIL 4/1775, f.150; Lawson to Bathurst, 3 June 1826, CO 201/179, f.96.
158. Macarthur received almost £300 in April and May 1822 for meat sold to the commissariat. Elizabeth Farm Day Book 1821-1823, Macarthur Papers ML A3000.
159. S.G., 14 August 1823.
160. e.g. Riley and Walker, Samuel Terry, Solomon Levey, S.G., 27 December 1822, 24 April 1823.

> The Government being the greatest, if not the sole, purchaser of the surplus Agricultural produce of the Colony, their Expenditure in reality forms the only means which the Colonists at present possess of obtaining those necessaries not the produce of the Colony. 161

Payment for imports was related to commissariat purchases and this linked the small farmer with the larger grazier and the merchant. Any change in the circulation of commissary funds aroused widespread concern. The reduction of the fixed price of meat and grain by the dollar system was followed by new wheat purchasing policies which, it was feared, foreshadowed changes in meat purchases.[162] These developments provoked oppposition from merchants and large and small settlers.

Brisbane regarded the government's purchases of grain as a vital area in which to reduce expenditure. He disapproved of the high price of local wheat and dependence on imported grain. Despite the availability of land, 66,000 bushels had been imported in 1821.[163] Increasing local production would achieve self-sufficiency and, with the dollar system, force prices down while increased assignment, payment for clearing gangs in grain and cultivation of wheat at government stations would reduce the quantity of wheat purchased by the government. Brisbane hoped that a smaller market and lower price would encourage the colonists to export wheat to the

161. President and Directors of the Bank of New South Wales to Brisbane, 10 May 1822, HRA i,X,732.
162. J.Macarthur to J.Macarthur jr, 19 October 1823, Macarthur Papers ML A2899. The interdependence of the settlers, merchants and commissariat payments is illustrated in G.J.Abbott, "Economic Growth", in G.J.Abbott and N.B.Nairn (eds.), Economic Growth of Australia 1788-1821 (Melbourne, 1969), p.160, fn.31.
163. Brisbane to (?), 13 December 1822, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Bruce, 18 March 1822, ibid.; Brisbane to Craufurd, 14 February 1822, Brisbane Papers PRO PMG1/1; Wemyss to Brisbane, 4 March 1822, Copies of Letters Sent and Received in the Colony 1821-1822, CS 4/5781, pp.195-197. Compare Fletcher, op.cit., p.191 that grain imports under Macquarie were limited.

Isle of France. Cheaper colonial grain could compete with Indian grain and pay for sugar imports from the Isle of France in place of Treasury bills, thus contributing to even greater economies.[164]

Commissariat grain purchases were a constant source of criticism throughout the Brisbane period. In December 1821 the quantity of wheat that each settler could deliver to the government store was reduced from 100 bushels to thirty.[165] This restriction made large sales expensive since it necessitated frequent trips to the government stores to dispose of small amounts.[166] The new policy was praised because it allowed the smaller farmers a greater opportunity to sell their grain to government.[167]

Although Wemyss disapproved of the fixed price of grain and meat, he considered that it would be "impolitic and unsafe" to introduce the more usual practice of competitive tenders[168] but in November 1822 Brisbane ordered grain to be purchased by tender.[169] In June 1823, when the supply of fresh meat offered for sale exceeded the government's requirements, the commissariat called for tenders.[170] Wemyss acknowledged that tenders had resulted in considerable savings. The Treasury made no comment, having already ruled that tenders should be part of the dollar system.[171]

164. Brisbane to Bathurst, 29 November 1823, HRA i,X1,183.
165. S.G., 1, 22 December 1821, 5 April 1822. A proposal that sales should be proportionate to the area cultivated was not implemented.
166. "Old Settler", S.G., 26 July 1822.
167. "Mercator", S.G., 19 July 1822; Chamber's comment at the farewell address meeting, Australian, 27 October 1825.
168. Wemyss to Harrison, 16 March 1822, T1/2150, No.24416.
169. Goulburn to Wemyss, 27 November 1822, encl., in Wemyss to Harrison, 27 March 1823, T1/2231, No.21598; S.G., 29 November 1822; Brisbane to (?), 13 December 1822, Brisbane Papers ML FM4/1626, Section 1.
170. S.G., 12 June 1823.
171. Hill to Wilmot-Horton, 25 March 1823, CO 201/144, f.224; Wemyss to Harrison, 27 March 1823, T1/2231, No.21598.

With the old maximum price reduced and then replaced by tenders, the price of grain fluctuated as farmers tried to balance their production with demand. Wheat could not be produced for less than 5s a bushel.[172] The good returns of 1822, about 8s a bushel, were followed by abundant harvests and in 1823 and 1824 prices fell sharply. The commissariat, hoping that prices would fall as low as 3s 6d, refrained from purchasing. Small settlers, anxious to sell their grain to pay debts, bartered it to merchant speculators such as Dixon and Terry for as little as 3s 9d.[173] Others who were unable to sell at a remunerative price early in the season fed their grain to the pigs.[174]

The commissariat delayed its purchases too long and was forced to buy from the speculators at highly inflated prices of 12s and 14s a bushel.[175] The government stores could have been filled at 4s a bushel in June 1824 but two months later prices were as high as 13s.[176] Merchants such as Solomon Levey denied the charge of speculation but, even if they had accepted wheat at a fair price, the merchants controlled the only large supplies of grain.[177] There was considerable resentment that the government's purchasing policy had caused such unnecessary instability.[178] John Macarthur commented

172. Forbes to Wilmot-Horton, 29 June 1825, Catton Papers, Derby.
173. Ibid.; J.Macarthur to J.Macarthur jr, 19 October 1823, Macarthur Papers ML A2899; Maclehose, op.cit., pp.53-54; J.Atkinson, op.cit., p.54; "An Old Emigrant Settler", S.G., 6 February 1823.
174. Busby to Kelman, 13 September 1824, Kelman/Busby Papers ML MSS 1183; J.Atkinson, op.cit., p.54; Maclehose, op.cit., p.53.
175. Forbes to Wilmot-Horton, 29 June 1825, Catton Papers, Derby.
176. Australian, 24 February 1825; J.Atkinson, op.cit., p.53.
177. S.G., 16 September 1824. Levey had offered to buy wheat at 3d less than the commissariat price as payment for debts in 1823. He then tendered a large quantity to the commissariat. S.G., 20 March, 24 April 1823; "An Old Emigrant Settler", S.G., 6 February 1823; S.G., 1 July 1824.
178. J.Atkinson, op.cit., pp.52-56.

that there was little point in the government purchasing cheap wheat if the cultivators did not receive a fair price and were ruined.[179] Chief Justice Forbes believed that commissariat purchases should have been regulated to encourage cultivation but Wemyss was more interested in reducing expenses than in the stability of the local market.[180] Brisbane was forced to agree. Although pleased with Wemyss's co-operation in retrenchment,[181] he feared that Wemyss's "capricious policy" had ruined many settlers.[182]

By mid-1824, several larger settlers, including Alexander Berry and D'Arcy Wentworth, predicted a wheat shortage due to the low prices of the preceding seasons.[183] These fears were taken seriously and in September 1824 wheat rations were cut.[184] The colonial government despatched the Almorah to Batavia to purchase flour.[185]

The charter of the Almorah triggered the most dramatic opposition to Brisbane's economic policies. Chief Justice Forbes believed that it was ill-timed[186] and the Australian agreed. The Almorah sailed during maize planting and if the growers had been assured of a government market, there would have been sufficient wheat until the maize ripened.[187] Rains after the departure of the Almorah improved the wheat crop and 10,000 bushels of wheat were imported from Van Diemen's

179. J.Macarthur to J.Macarthur jr, 19 October 1823, Macarthur Papers ML A2899.
180. Forbes to Wilmot-Horton, 29 June 1825, Catton Papers, Derby.
181. Brisbane to Bathurst, 2 September 1822, HRA i,X,730.
182. Brisbane to Harrison, 13 April 1825, Brisbane's Letter Book ML A1559/3.
183. Berry to Wollstonecraft, 3 July 1824, Berry Papers ML UCMSS 315/11; Brisbane to Bathurst, 4 March 1825, HRA i,X1,529; J.Atkinson, op.cit., p.54.
184. S.G., 9 September 1824.
185. Brisbane to Bathurst, 4 March 1825, with encls., HRA i,X1,529-540; C.H.Currey, Sir Francis Forbes (Sydney, 1968), pp.128-134.
186. Forbes to Wilmot-Horton, 24 March 1825, HRA iv,1,585,587.
187. Australian, 24 February 1825.

Land to cover the deficit until the harvest in December. Although prices climbed as high as 16s and 20s a bushel, with the good harvest they dropped to 6s a bushel.[188]

Both Forbes and the Reverend Samuel Marsden, vice-president of the Agricultural Society, protested to the governor against importing grain before the extent of the shortage was known.[189] The merchants objected to government imports taking their business and resented that £200,000 of Treasury bills were to be spent abroad. There were fears that dollars would be purchased in Batavia when there were already more dollars than could be exchanged into Treasury bills. The Bank of New South Wales alone held $100,000.[190] Brisbane assured the merchants that Wemyss had not approached him for Treasury bills to purchase dollars and since the bills were not negotiable without the governor's countersignature, it was unlikely that the commissariat intended to purchase dollars in Batavia.[191] This reply caused serious alarm among the merchants because the commissariat had been issuing Treasury bills without Brisbane's signature for several months.[192]

In order to check commissariat expenditure, the governor was required to countersign all Treasury bills. Drennan had been reprimanded in 1820 for not obtaining the governor's signature[193] and a Treasury circular in February 1822 re-emphasized that governors must countersign all Treasury

188. S.G., 16, 23, 30 September, 7 October, 16 December 1824.
189. Forbes to Wilmot-Horton, 24 March 1825, HRA iv,1,586; Brisbane to Wemyss, 13 March 1825, Brisbane's Letter Book ML A1559/2.
190. Memorial of Sydney Merchants, n.d.(early September 1824?), CSIL 4/1775, f.146. Another copy with signatures, Brisbane's Letter Book ML A1559/1; Australian, 24 February 1825; Forbes to Wilmot-Horton, 24 March 1825, HRA iv,1,585.
191. Brisbane to Goulburn, 11 September 1824, CSIL 4/1775, f.147; Goulburn to Campbell, 14 September 1824, CSOL 4/3512, p.363.
192. Campbell to Goulburn, 15 September 1824, CSIL 4/1775, f.148.
193. Butlin, op.cit., p.135, fn.148.

bills.[194] Brisbane refused to countersign the bills. The Treasury considered the governor's signature was an essential safeguard and ordered Brisbane to comply.[195] Meanwhile, bills without Brisbane's signature would be accepted if they were otherwise regular.[196]

Recalling Drennan's mismanagement, Brisbane pointed out that financial responsibilities were not included in his commission. Whilst willing to make every effort to reduce expenses, Brisbane was adamant that he would not become "identified with the public money transactions" and he requested a public accountant.[197] Brisbane's emphatic rejection of financial responsibility must be considered in the light of his personal financial problems and the confusion in the colonial accounts alarmed him. Brisbane was relieved of the responsibility and the newly appointed commissary of accounts was instructed to countersign the Treasury bills.[198]

The absence of Brisbane's signature on Treasury bills had been noted in 1822 and was criticized for encouraging the independence of the commissariat.[199] The extent of this independence was revealed in the Almorah incident. Brisbane had apparently forgotten his battle with the Treasury and his actual practice with the Treasury bills when he assured the merchants that bills without his signature were invalid, though later in the month he requested Goulburn to find the despatch which relieved him of financial responsibility.[200]

194. J.J.Eddy, Britain and the Australian Colonies 1818-1831 (Oxford, 1969) p.159.
195. Lushington to Brisbane, 5 August 1822, HRA i,X,802-803.
196. Harrison to Wemyss, 31 July 1822, WO 58/116, ff.131-132.
197. Brisbane to Lushington, 20 March 1823, HRA i,X1,58-59.
198. See Chapter 1; King and Drinkwater to the Lords of the Treasury, 22 November 1823, T1/2240, No.24259; Harrison to Brisbane, 13 December 1823, HRA i,X1,186.
199. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.20.
200. Goulburn to Brisbane, 22 September 1822, CSOL 4/3512, p.407.

Wemyss had decided to purchase dollars in Batavia and he did not inform the governor.[201] In view of the public controversy about the Almorah's mission, it was inconceivable that Wemyss was not aware of Brisbane's assurances that no dollars would be purchased and his silence was a gesture of contempt toward the local government.[202]

The Almorah returned in mid-February 1825 with a cargo of rice, sugar, wheat, a number of chests of tea and 106,000 dollar coins. The following day, the ship was seized by H.M.S.Slaney for an alleged breach of the East India Company's charter by importing tea. During negotiations for its release, the Almorah was sailed out of Sydney Harbour to Calcutta.[203]

Captain Mitchell of the Slaney had acted on the advice of two unnamed Sydney merchants, representing those whose interests were affected by the Almorah's cargo.[204] A few days earlier, Mitchell and his crew had earned the gratitude of leading merchants and settlers by saving the Mangles from shipwreck.[205] Thomas Raine, a merchant and shipowner, and Sir John Jamison, a landowner, provided bail for Mitchell after his arrest as an accomplice for an attack on the attorney-general who had attempted to board the Almorah.[206] Jamison had opposed the dollar system since its introduction[207] and Raine, as partner

201. Currey, op.cit., p.129; Herries to Wemyss, 31 July 1825, WO 58/116, p.264 in reply to Wemyss' report in November 1824 of his intention to buy dollars in Batavia.
202. Forbes to Wilmot-Horton, 24 March 1825, HRA iv,1,587.
203. Brisbane to Bathurst, 4 March 1825, HRA i,XI,529-540; S.G., 24 February 1825; Australian, 24 February 1825.
204. Mitchell to the Lords of the Admiralty, 11 March 1825, CO 201/164, f.60; Bannister to Brisbane, 16 March 1825, Governor's Despatches ML A1195, p.514. Some enclosures to Brisbane's despatch on the incident in this collection are not included with the governor's despatch in CO 201/161 but with Bannister's correspondence at CO 201/166, f.145.
205. S.G., 24 February 1825.
206. S.G., 3 March 1825; Mitchell to the Lords of the Admiralty, 11 March 1825, CO 201/164, f.60; Currey, op.cit., pp.130-131.
207. Jamison to Bathurst, 2 September 1822, CO 201/111, f.365 ff.

in the firm of Raine and Ramsay, had signed the merchants' petition against the charter of the Almorah.[208] W.C.Wentworth was possibly involved in the seizure.[209] Wentworth and his associate, Robert Wardell, were Mitchell's legal counsel and negotiators and their newspaper, the Australian, defended the seizure. Jamison, Raine and Wentworth with six other merchants and settlers petitioned the sheriff for a public meeting to discuss the fate of the Almorah but their request was superseded by the Almorah's escape.[210]

Brisbane was at Parramatta and provided no personal leadership during this crisis, Wemyss conferred with the attorney-general who doubted that the local courts had jurisdiction and this prompted the removal of the ship to India.[211] Wemyss blamed Bannister for negotiating rather than taking more positive action, thereby allowing the ship to escape.[212] Brisbane was unwilling to use force to recover the cargo since the grain shortages were not as severe as had been feared,[213] but he added to the confusion by denying knowledge of Wemyss's purchases and demanding the commissary's removal.[214] The only coherence was Bannister's insistence that regardless of the purchasing authority or the political

208. Memorial of Sydney Merchants, n.d. (September 1824?), Brisbane's Letter Book ML A1559/1.
209. S.G., 11 August 1825. Wentworth and Raine were detained by soldiers in the dock area at night after the seizure. Wentworth to Brisbane, 26 February 1825, Wentworth's Legal Letter Book ML A1440.
210. The others were Gregory Blaxland, J.T.Campbell, William Walker, Robert Johnston, Thomas Winder and John Dickson. G.Blaxland et al. to Mackaness, 1 March 1825, Mackaness Papers ML A317; Australian, 17 March 1825.
211. Wemyss to Bannister, 21 February 1825, Governor's Despatches ML A1195, p.427; Bannister to Brisbane, 22 February 1825, CO 201/166, f.156; Currey. op.cit., p.130.
212. Wemyss to Bannister, 2 March 1825, Governor's Despatches ML A1195, p.457.
213. Brisbane to Bathurst, 4 March 1825, HRA i,X1,531-532. Bannister had specifically asked Brisbane whether the circumstances justified violence to retrieve the cargo. Bannister to Brisbane, 24 February 1825, CO 201/166, f.158 ff.
214. Brisbane to Wemyss, 13 March 1825, Brisbane's Letter Book ML A1559/2; Brisbane to Wilmot-Horton, 24 March 1825, HRA i,X1,556.

wisdom of the charter, the cargo was Crown property.[215] Whilst delighting in Wemyss's humiliation, even critics such as John Macarthur recognized that the commissariat had to be supported to protect the government's interests.[216]

The Treasury supported Wemyss:

> You should not, without special instructions from the Governor have sent Bills to Batavia for negotiation for specie, but they think the measure of sending those bills to have been perfectly correct, and one which if the Governor had been applied to, he should have sanctioned. [217]

Tea imports were not illegal because tea was part of the government ration in New South Wales.[218] Wemyss had protected the public interest by specifying the minimum rate of exchange for the bills and had ordered that if a full cargo of rice, flour or wheat could not be obtained, other rations such as tea and sugar could be purchased. The cargo was inspected in Batavia and a report sent to the Treasury so there were no grounds for accusations of clandestine behaviour by commissariat officials.[219] The Treasury considered that the similarity of the cargo to items produced or privately imported into the colony did not justify opposition to the commissariat.[220]

The Colonial Office took a different view. Although Bathurst agreed that the commissariat should import necessary supplies, he strongly defended the local merchants:

215. Bannister to Brisbane, 16 March 1825, CO 201/166, ff.130-133.
216. J.Macarthur to Mitchell, 7 March 1825, Mitchell Papers ML A2026.
217. Herries to Wemyss, 31 July 1825, WO 58/116, p.264.
218. Hill to Hay, 28 October 1825, CO 201/165, f.388.
219. Drinkwater and Stewart to the Lords of the Treasury, 28 November 1825, HRA i,X11,132-135.
220. Harrison to Hay, 9 December 1825, ibid., p.131.

> It is evident that unless the private Trader can feel assured that he will be protected against the unnecessary interference of Government Agents in the course of his Trade, either the Settlement will be exposed to severe Privations by reason of the reluctance of private Traders to furnish the Supply of any Article, the demand for which...may be... superseded by the sale of the same Article on the part of the Commissariat, or the Individuals, who may be engaged in such Trade, will be exposed to ruin by being undersold by the Commissariat. [221]

The Almorah incident ended Brisbane's confidence in Wemyss. To accusations that the charter would have been unnecessary but for mistaken purchasing policies was added the spectacle of the commissariat's defiance of the governor by importing dollars. The situation was not simply a result of lack of control by Brisbane,[222] as had been the problem with the colonial secretary,[223] because the governor's authority over the commissariat was ambiguous.[224] After the incident, Brisbane tried to limit the commissariat's independence by ordering wheat purchases at a remunerative price and increasing wheat storage.[225] Publicly advertised tenders were the fairest system and he rebuked Wemyss for reverting to private supply contracts.[226]

Lack of confidence in the government's purchasing policies resulted in little agricultural expansion. Although the area cleared more than doubled between 1821 and 1825 from 58,312 acres to 127,878, the area under cultivation rose by only 13,000 acres, from 32,266 to 45,514 acres. The additional cultivation was mainly wheat with a marginal increase in maize,

221. Bathurst to Darling, 30 December 1825, HRA i,X11,131. It is not clear why Bathurst assumed that the commissariat would sell its imported supplies. The Almorah's cargo was for government consumption.
222. Darling to Bathurst, 27 October 1826, HRA i,X11,660.
223. See Chapter 2.
224. B. Fletcher, "Administrative Reform in New South Wales Under Governor Darling", Australian Journal of Public Administration, 38 (1979), pp.258-259.
225. Brisbane to Harrison, 13 April 1825, Brisbane's Letter Book ML A1559/3; Brisbane to Wemyss, 23 August 1825, ibid.
226. Brisbane to Wemyss, 5 September 1825, ibid.

barley, oats, rye and potatoes.[227]

Colonial distilling had long been recommended to encourage grain production. Macquarie, Wentworth and Bigge favoured this idea and the Colonial Office approved it in 1821.[228] The first distillery opened in 1823 and a surveyor of distilleries was appointed in 1824.[229] Brisbane imposed protective duties[230] but he disapproved of colonial distilling:

> I cannot but view the establishing of Distilleries as the worst step that ever was adopted,...the Colony will not be ripe for such proceeding for at least 10 years to come. It will have the effect of enriching a few Individuals at the public expence, Impairing to a great extent our Revenue as well as our health and Morals. [231]

The distillers were allowed to use sugar when colonial grain prices were high so distilling did not stabilize local grain production. In 1825, 12,235 gallons of spirits were distilled, none from local grain. There was insufficient capital for a competitive industry and Robert Cooper and James Underwood emerged as the local distillers.[232]

Brisbane's most effective economic initiative was the restriction of Treasury bills with the introduction of the dollar system. He hoped that this would force the colonists to develop local resources[233] and it succeeded in stimulating alternative sources of remittance.[234]

227. 1821 Muster, HRA i,X,577; Colonial Returns 1825.
228. Macquarie to Bathurst, 22 March 1819, with encl., HRA i,X,53,59-60; Wentworth, op.cit., p.177; Bigge, Agriculture and Trade, pp.86-87; D.I.Macdonald, "The Worst Step That Was Ever Adopted", JRAHS, 56 (1970), pp.206-224.
229. S.G., 22 May 1823; Bathurst to Brisbane, 30 April 1824, HRA i,X1,253.
230. Brisbane to Bathurst, 4 February 1825, HRA i,X1,487-488.
231. Brisbane to Wilmot-Horton, 24 March 1825, ibid., p.555.
232. Forbes to Brisbane, 3, 10 February 1823, CSIL 4/1764, f/47,49; S.G., 21 April 1825; Colonial Returns 1825.
233. Brisbane to Craufurd, 8 April 1822, Brisbane Papers PRO PMG1/1.
234. "Mercator", S.G., 17 May 1822; Wollstonecraft to Macleay, 15 August 1826, HRA i,X11,509.

The colonists' appetite for imported products such as spirits, tea, sugar, tobacco and manufactures exceeded their means to pay for such items.[235] This had caused economic crises in the past but no abatement in demand or the willingness of merchants to risk speculative cargoes.[236] Imports from Britain included spirits, hardware, iron, foodstuffs and manufactured goods whilst British colonies and other countries supplied sugar, coffee, tea, tobacco, spices, spirits and some durable items.[237] Trade statistics, though only available for the mid-1820s when steps had been taken to correct the deficit, reveal the extent of the imbalance. British exports to New South Wales and Van Diemen's Land from 1822 to 1824 were about £200,000. Colonial exports to Britain, though increasing, were only £16,392 in 1822, £51,376 in 1823 and £47,409 in 1824.[238] Various estimates suggest that total colonial imports were valued from £300,000-£400,000 in 1825 with exports barely £100,000.[239] The large deficit was financed by remittances in dollars or in Treasury bills.[240]

Colonial demand for British manufactured goods was one reason for the 1819 petition by the colonists to lift shipping restrictions between Britain and New South Wales.[241] By 1822 and 1823, the colonial market was glutted with imports.[242] Manufacturing enterprises in the colony were limited to

235. E.Macarthur to Kingdon, 21 September 1822, in Onslow, op.cit., p.375.
236. Abbott, "Economic Growth", pp.148-151.
237. Bigge, Agriculture and Trade, p.57; Colonial Returns 1825.
238. P.P., 1825, Vol.XXI, pp.358-359. The figures are to January of the following year.
239. P.Cunningham, Two Years in New South Wales (1827 and Sydney, 1966), pp.217-218; J.Atkinson, op.cit., p.130; Statistical Register of New South Wales for the Year 1861 (Sydney, 1862); W.A.Sinclair, The Process of Economic Development in Australia (Melbourne, 1976), p.61; Abbott, "Economic Growth", p.161, fn.48.
240. Cunningham, op.cit., p.221.
241. Macquarie to Bathurst, 22 March 1819, encl., HRA i,X,60-61.
242. Berry to Davison, 28 November 1822, Berry Papers ML UCMSS 315/5; H.Macarthur to King, 18 April 1823, King Papers ML A1976.

utilitarian items such as rough cloth, hats, shoes and common domestic pottery or to basic industries such as flour milling, tanning, salt, soap and candle making, lime burning, brick making and brewing, Many of these enterprises were operated by former convicts.[243] Bigge and Wentworth saw the colony principally as a market for British goods but neither Macquarie nor Brisbane hindered the growth of local manufacturing.[244] Imported steam engines increased the capacity of colonial industries which had previously relied on wind and water mills and one steam engine imported in 1815.[245]

By 1821, many colonists who had earlier combined trade with farming now concentrated on their landed pursuits. John Macarthur welcomed new arrivals such as Berry and Wollstonecraft who preferred to invest in trade.[246] There were three commercial divisions - the importers, those who purchased cargoes for speculation and the retailers,[247] though most merchants did some retailing.[248] In 1819, Bigge counted twelve importing merchants but he did not name them.[249] Edward Riley considered the major importers were Jones and Riley, Robert Campbell senior, William Campbell, Berry and Wollstonecraft, Thomas Macvitie, Prosper de Mestre, Thomas Winder and the emancipists

243. Bigge, Agriculture and Trade, pp.51-52; Macquarie to Bathurst, 27 July 1822, HRA i,X,675; J.Atkinson, op.cit., p.131; Cunningham, op.cit., p.252; G.P.Walsh, "The Geography of Manufacturing in Sydney 1788-1851", Business Archives and History, 3 (1963), p.36.
244. Bigge, New South Wales, p.158; Wentworth, op.cit., pp.189-193.
245. Walsh, op.cit., pp.36-37; S.G., 1 April 1824.
246. J.Macarthur to J.Macarthur jr, 28 February 1820, in Onslow, op.cit., p.334; M.J.E.Steven, "The Changing Pattern of Commerce", in Abbott and Nairn, op.cit., pp.184-185; D.R.Hainsworth, "Trade within the Colony", ibid., pp.280-281,283; Fletcher, Landed Enterprise, pp.184-185.
247. Evidence of E.Riley in J.Ritchie, The Evidence to the Bigge Reports (2 vols., Melbourne, 1971), Vol.1, Oral Evidence, p.109.
248. "A Constant Reader", S.G., 28 November 1825.
249. Bigge, Agriculture and Trade, p.62.

Samuel Terry, James and Joseph Underwood and Eagar and Forbes.[250]

During Brisbane's administration, these merchants faced increased competition from a number of successful newcomers such as Aspinall, Browne and Company, Raine and Ramsay, A.B.Spark, T.H.James and R.C.Pritchett. By 1825, only five of fifteen shipping agents had been well-established merchants before Brisbane's arrival and only two were emancipists.[251] Thirty of forty-two merchants active in Sydney in 1828 had dealt in imported goods under Brisbane.[252] Identification of the smaller retailers is more difficult. Accounts for advertisements in the Sydney Gazette during 1824 and 1825 list at least seventy commercial outlets who advertised regularly.[253] Some were large importers such as Riley and Walker; others were specialized retailers like apothecaries, jewellers, milliners and publicans but many of these smaller retailers also sold a range of imported manufactured articles, clothing and packaged food items such as condiments.

The importers recognized that the lack of a reliable export forced them, like other settlers, to rely on the income generated by government purchases.[254] Following the introduction of the dollar policy, there were rumours of merchants failing and leaving the colony.[255] There was no financial crash, due to the "prudence and forbearance" of the mercantile sector.[256]

250. Evidence of E.Riley, in Ritchie, Bigge - Oral Evidence, p.109.
251. Weekly Commercial Express, 22 August 1825.
252. Australian, 2 July 1828.
253. Sydney Gazette Ledger 1824-1827, ML MSS 26/5.
254. Berry to (?), 10 January 1823, Berry Papers ML UCMSS 315/5.
255. S.G., 28 June 1822, supplement.
256. Berry to Davison, 28 November 1822, Berry Papers ML UCMSS 315/5; Berry to (?), 10 January 1823, ibid.

Those with large stocks of imported goods were deprived of Treasury bills for remittances and probably lost as the market became glutted with the goods of anxious merchants.[257] They quickly sought alternative remittances.

Interest in a staple export had fluctuated with economic conditions since the beginning of the settlement. During Governor King's administration, a reduction in Treasury bills had stimulated the search for exports with particular interest in sealing, whaling and south sea island products such as sandalwood.[258] The effect was similar twenty years later.

During Macquarie's administration, intermittent attempts were made to develop exports. Bigge noted that flour had been sent to the Cape of Good Hope, horses to Batavia, coal to Asia, India and Mauritius and wool to Britain.[259] By 1821, exports of wool, seal oil and skins were in a "state of progressive but not rapid increase" with Treasury bills still dominating overseas payments.[260]

Restrictions on the size of vessels trading with the colony had limited the shipping available for colonial produce. British import duties on accessible items such as whale and seal oils, wool, hides, tanning bark and hemp were prohibitive. There were also colonial reshipment duties on sandalwood, pearl shells, oils, seal furs, timber and coal. In 1819, the colonists petitioned for the removal of these limitations.[261] The British government had anticipated their request and new

257. Berry to Davison, 28 November 1822, Berry Papers ML UCMSS 315/5; H.Macarthur to King, 18 April 1823, King Papers ML A1976.
258. G.J.Abbott, "Governor King's Administration", in Abbott and Nairn, op.cit., pp.162-175.
259. Bigge, Agriculture and Trade, p.64,53.
260. Berry to (?), 10 January 1823, Berry Papers ML UCMSS 315/5; Bowman to Buchanan, - February, 16 July 1821, Buchanan Papers, Vol.1, Macarthur Collection ML A4266.
261. Macquarie to Bathurst, 22 March 1819, encl., HRA i,X,60-65.

legislation allowed unrestricted shipping to the colony and removed colonial reshipment duties.[262] In 1822 British import duties on colonial wool were suspended and those for bark and naval timber reduced.[263]

Brisbane considered that the removal of these duties was an important incentive and anticipated exports of wool, tobacco, flax, wines, wool and coal.[264] The impetus was already apparent. In twelve months, ten ships had sailed with full cargoes of colonial produce,[265] probably similar to the cargo of the Shipley which sailed in March 1821 carrying wool, seal and kangaroo skins, sperm oil, coconut oil, arrowroot and timber.[266] None of these goods were assured of a regular market which would encourage its export.[267]

The sudden restriction of Treasury bills in 1822 increased the need for colonial exports and those connected with trade applied their energies to the remittance problem in a manner that surprised Hannibal Macarthur. Unable to acquire sufficient bills, they purchased any colonial produce in their attempts to find saleable items.[268] Merchants again turned their attention to seal skins and whale oil but there was increasing interest in the more accessible land resources such as timber, wattle barks, coal, kangaroo and ox hides. These could be exploited quickly with little capital. Wool was accepted as the export with the greatest potential[269] but required large

262. Bathurst to Macquarie, 4 August 1819, HRA i,X,196-197.
263. Bathurst to Brisbane, 9 September 1822, ibid., p.793.
264. Brisbane to (?), 13 December 1822, Brisbane Papers ML FM4/1626, Section 1.
265. S.G., 1 February 1822.
266. Steven, "Changing...Commerce", p.187, fn.33.
267. M.J.E.Steven, "Exports other than Wool", in Abbott and Nairn, op.cit., p.303.
268. H.Macarthur to King, 18 April 1823, King Papers ML A1976.
269. Brisbane to Bathurst, 7 September 1822, encl., HRA i,X,782-783; Oxley to Lee, 31 January 1823, Oxley Papers ML A5322/1, No.45; Macquarie to Bathurst, 1 March 1819, encl., HRA i,X,21; Hassall to Skinner, 28 April 1823, Hassall Papers ML A1677/4.

outlays of capital in stock and time.[270] Nevertheless, wool which had formerly been thrown away was now purchased by the merchants.[271] The prices of all local products were inflated by competition for export cargoes.[272]

John Macarthur had aroused British interest in colonial wool as early as 1803. He and his family concentrated on the improvement of their flocks and their example was followed by a small number of colonists. Wool exports from New South Wales were negligible until 1812 when the Reverend Samuel Marsden sent a large, though inferior, selection of his wool to Britain. Its good prices encouraged other growers and from 1815 there was a steady increase in wool exports, reaching 175,433 lbs of mixed quality wool in 1821.[273] The regular high prices that the Macarthur family received for their best fine merino wool indicated that development should concentrate on quality wool.[274]

Producing fine wool was a specialised activity. In 1820, Wentworth calculated that only one sheep in ten was fine woolled.[275] They were owned by a handful of the richest colonists such as Macarthur, Marsden, Cox, Hassall, Riley, Oxley, Lowe, Howe and Jamison who were confident of its future and could afford the initial investment and the delay while

270. Wollstonecraft to Davison, 1 July 1823, Berry Papers ML UCMSS 315/18.
271. J.Ker, "The Wool Industry in New South Wales 1803-1830, Part 2", Business Archives and History, 2 (1962), p.34; Berry to Davison, 28 November 1822, Berry Papers ML UCMSS 315/5; Buchanan to Bowman, 28 July 1825, Buchanan Papers, Macarthur Collection ML A4267.
272. H.Macarthur to King, 18 April 1823, King Papers ML A1976.
273. Fletcher, Landed Enterprise, p.164; J.Ritchie, Punishment and Profit (Melbourne, 1970), pp.276-279.
274. Bigge, New South Wales, p.162; Bigge, Agriculture and Trade, pp.16-17; Fletcher, Landed Enterprise, p.165.
275. G.J.Abbott, The Pastoral Age - A Re-examination (Melbourne, 1971), p.47.

their flocks developed.[276] Although emancipists such as Terry owned many sheep and Edward Eagar recognized the potential of wool, few former convicts were interested in wool exports.[277]

Bigge envisaged a colonial wool industry which would employ convicts away from the towns and provide a valuable export to improve the balance of payments.[278] Although only settlers with "capital and intelligence...time and perseverance" had as yet considered wool exports, Bigge was confident that the industry could prosper if British duties were reduced.[279] His recommendations were accepted by the Colonial Office and captured the imagination of British investors. In 1824, the Australian Agricultural Company was established by parliament to invest £1,000,000 in fine wool production in the colony.[280] This operation was substantially larger than any yet formed in the colony, involving not only the import of capital but skilled labour and improved stock. Although its activities did not start until the end of 1825, the concept of a highly capitalized company for pastoral activities symbolized a deep committment to the future of colonial wool. Brisbane was excited by its potential stimulation of trade.[281]

The major pioneering work for fine wool had been completed by the 1820s[282] but the fleeces of the Macarthurs were the result of careful breeding and could not be duplicated within

276. J.Atkinson, op.cit., p.73; Fletcher, Landed Enterprise, pp.182-183; Abbott, Pastoral Age, p.46.
277. Abbott, Pastoral Age, p.46; Fletcher, Landed Enterprise, p.209, fn.49.
278. Bigge, New South Wales, pp.161-162; Bigge, Agriculture and Trade, p.53.
279. Bigge, New South Wales, p.162.
280. Bathurst to Brisbane, 13 July 1824, 17 April 1825, HRA i,X1,305-306, 562-568; S.H.Roberts, History of Australian Land Settlement (1924 and Melbourne, 1968), p.57.
281. Brisbane to Wilmot-Horton, 3 November 1824, Catton Papers, Derby.
282. Ker, op.cit., p.36.

a few years. The number of sheep doubled between 1821 and 1825, increasing from 119,777 to 237,622.[283] These figures were not unexpected since the rate of natural increase was a doubling of numbers in three years.[284] Wool exports also doubled in these years, reaching 411,600 lbs in 1825.[285] Neither the dramatic increase in numbers and exports implied a corresponding increase in quality and much of the wool sold in Britain did not cover the cost of its production.[286]

The necessity for quality breeding was recognized by the newly formed Agricultural Society in 1822. In a memorial requesting the reduction of British import duties on wool, the society stressed its particular interest in importing pure-bred merino sheep to improve the quality of colonial wool and it established a fund for this purpose.[287] In 1822 and 1823 barely fifty sheep were imported but over 150 merinos and twenty Saxon sheep arrived in Sydney in 1824 and more than 750 merinos and 200 Saxons arrived in 1825.[288] This was high-risk capital because of the great mortality rate among the animals on the long voyage.[289] Alexander Riley spent £4,000 and two years' planning to bring 200 Saxon sheep to the colony.[290]

Whilst a few settlers had taken a serious interest in wool for many years, others such as William Lawson, did not

283. 1821 Muster, HRA i,X,577; Colonial Returns 1825.
284. Brisbane to Bathurst, 24 July 1824, HRA i,X1,331.
285. Colonial Returns 1825.
286. Abbott, Pastoral Age, p.56; Ritchie, Punishment and Profit, p.281,291.
287. Brisbane to Bathurst, 7 September 1822, encl., HRA i,X,782-783; President of the Agricultural Society (Jamison) to Brisbane, - July 1822, Miscellaneous Loose Papers 1802-1844, AONSW 5/3822.6.
288. G.J.Abbott, "Was Labour Scarce in the 1830s? A Comment", Australian Economic History Review, 12 (1972), p.180. Compare Ritchie, Punishment and Profit, pp.291-292.
289. J.P.Fogarty, "The New South Wales Pastoral Industry in the 1820s", Australian Economic History Review, 8 (1968), p.117; J.Ker, "Merchants and Merinos", JRAHS, 46 (1960), pp.212-213.
290. Ibid.

turn to wool until the 1820s. The third largest sheepowner in 1822 with a flock of 5,000, Lawson's wool shipment of only 7,408 lbs contained less than twenty per cent first quality wool.[291] By 1824 he had culled his flocks which now totalled 9,000 sheep and most of his 1,600 lambs were fine woolled sheep.[292] Lawson needed pure bred merinos to improve his fleeces and he imported stock from Britain rather than purchase from Macarthur.[293] Like many of the large proprietors, Lawson grazed his sheep over the mountains.[294]

For new settlers with capital, fine wool was a promising enterprise. The Scott brothers, Robert and Helenus, had arrived in 1822 and received a grant in the Hunter Valley. Although they later specialised in horse-breeding, their early interest was in sheep. Helenus wrote to his family that the great object of settlers was to breed fine woolled sheep but suitable stock was difficult to acquire.[295] They were flattered when Macarthur sold them 150 ewes that he had refused to others and between 1823 and 1825 they bought eight rams from Macarthur for £121.[296] New settlers with less capital were also interested in wool and their ambition was to acquire a flock and grazing land.[297] For settlers with flocks of established quality, there was an eager market among old and

291. Lawson to Sloper, 28 February 1822, Lawson Papers, Corporation of London Record Office MS 6.2; Ker, "Wool Industry", pp.35-36.
292. Lawson to Sloper, 27 January, 4 June 1824, Lawson Papers, Corporation of London Record Office MS 6.2.
293. Lawson to Sloper, 4 June 1824, ibid.; W.Lawson to N.Lawson, 2 July 1824, ibid.; Henty to Street, 23 February 1823, Street Papers ML A3014.
294. Lawson to Sloper, 4 June 1824, Lawson Papers, Corporation of London Record Office MS 6.2; S.G., 4 November 1824.
295. H.Scott to A.Scott, 8 May 1824, Scott Papers ML A2264; "R. & H.Scott". ADB, Vol.2.
296. H.Scott to Mrs Scott, n.d.(October 1824?), Scott Papers ML A2264; Onslow, op.cit., pp.475-477.
297. Stuart to Bruce, 1 September 1824, Brisbane Papers ML UCMSS 329; Hindmarsh to Nisbet, 21 September 1824, Hindmarsh Papers ML A3164.

new settlers for their stock.[298] Few of the new arrivals were as fortunate as John Street of Bathurst. He received advice from his friend Thomas Henty, a prominent British sheep breeder who sold stock to Lawson, Aspinall, Browne and the Australian Agricultural Company.[299]

Brisbane recognized the potential for wool exports.[300] His concern to increase total exports stimulated colonial interest in the wool industry. Before the dollar policy, most wool was exported privately by the growers and few merchants were involved.[301] The restriction of Treasury bills meant that merchants such as Berry and Wollstonecraft, who were not interested in developing wool themselves, were now anxious to purchase wool from the settlers to export.[302] Aspinall Browne and Company shipped wool[303] while Raine and Ramsay advertised for cargoes of wool and became large exporters.[304] Demand was sufficiently strong for Robert Townson to announce that wool was available at his property for merchants who wished to purchase it.[305]

Much of the new investment in stock was made by merchants such as Richard Jones and Alexander Riley.[306] W.J.Browne doubled his flocks from 2,400 to 4,500 sheep in 1823.[307] By 1825, wool exports were no longer isolated private

298. Abbott, Pastoral Age, pp.55-56; Ker, "Wool Industry", p.27.
299. Henty to Street, 24 December 1824, 23 February 1825, Street Papers ML A3014; "T.Henty", ADB, Vol.1.
300. Brisbane to (?), 13 December 1822, Brisbane Papers ML FM4/1626, Section 1; Brisbane to R.Barnard, 24 February 1823, Brisbane Letter ML DOC 834; Brisbane to Bathurst, 29 November 1823, HRA i,X1,180.
301. Bigge, Agriculture and Trade, p.53.
302. Berry to Davison, 28 November 1822, Berry Papers ML UCMSS 315/5; Wollstonecraft to Davison, 1 July 1823, ibid., UCMSS 315/18.
303. James Macarthur to J.Macarthur jr, 31 January 1824, in Onslow, op.cit., p.401.
304. D.Ramsay to E.Ramsay, 30 January 1824, Ramsay Papers ML MSS 564/1; S.G., 18 November 1824; J.Atkinson, op.cit., p.80.
305. S.G., 30 November 1824.
306. Ker, "Wool Industry", p.29; Ker, "Merchants and Merinos", pp.212-213.
307. W.Browne, Memorials, 14 May, 10 December 1823, CSIL Memorials re:Land 4/1834A.

shipments by settlers. The Mangles sailed in February 1825. Her cargo was exported by twelve merchants and nine settlers and included 635 bales of wool. Six of seven merchants with cargo on the Harvey which sailed for London in November 1825 sent wool, totalling eighty-seven bales, and four settlers exported a further sixty-two bales of wool.[308] The successful exporters, whether settlers or merchants, had contacts in Britain who kept them informed of market conditions and encouraged greater preparation of their fleeces.[309]

Wool exports were not an established source of income in 1821.[310] Bigge's recommendations would have stimulated the industry in the early 1820s and Brisbane's economic policies provided additional momentum. The argument that settlers could make higher profits by selling mutton to the commissariat rather than wool to Britain ignores the economic motivation for exports.[311] The relative profitability of wool or mutton was irrelevant when commissariat payments no longer provided the means to pay overseas debts. Foreign exchange was essential for the import merchants and they responded to Brisbane's restriction of Treasury bills by becoming major exporters of wool.

Though wool was ultimately the most successful export, it was only one of several items that attracted the merchants in response to Brisbane's economic restrictions. Colonial interest in sealing and whaling had developed in the beginning of the nineteenth century. The waters of the south Pacific

308. S.G., 24 February, 10 November 1825.
309. Ker, "Wool Industry", pp.30-33; Ker,"Merchants and Merinos", p.214.
310. Ritchie, Punishment and Profit, pp.283-293.
311. E.A.Beever, The Origin of the Wool Industry in New South Wales", Business Archives and History, 5 (1965), p.99.

were popular grounds for British and American fishing vessels and the colonists, particularly the emancipists, joined in these ventures using Sydney or Hobart as trans-shipping ports for the skins and oil.[312] Sealing and bay whaling required less capital than deep-sea whaling which did not attract significant colonial involvement until the end of the 1820s.[313] During the early 1820s, seal skins were the major fishery export and it was not until after 1825 that whale oil predominated.[314]

The repeal of British oil duties in 1823 encouraged capital investment in the fisheries.[315] Brisbane's economic restrictions increased the attraction of fishery exports. By 1825, the majority of Sydney vessels involved in the fisheries or south sea ventures were owned by the principal importing merchants such as Raine and Ramsay, Richard Jones, Icely and Hindson.[316] The prominence of the emancipists had been eroded from 1815 and Solomon Levey and Joseph Underwood were the only ones with significant interests by the 1820s.[317]

In 1824 there were ten colonial vessels engaged in sealing for the British market with an estimated catch of 40,000-50,000 skins. Joseph Underwood had a base at Macquarie Island for elephant seal oil which, combined with the catch from the Caroline, would produce 700 tuns of elephant oil in two seasons.

312. Bigge, Agriculture and Trade, pp.56-57; M.J.E.Steven, "Exports other than Wool", in Abbott and Nairn, op.cit., pp.287-294,298-300.
313. B.Little, "The Sealing and Whaling Industry in Australia Before 1850", Australian Economic History Review, 9 (1969), p.116,118.
314. Ibid., p.125.
315. R.M.Hartwell, "Australia's First Trade Cycle. Boom, Crisis, Depression and Recovery in New South Wales 1820-1832", JRAHS, 42 (1956), p.57.
316. Weekly Commercial Express, 16 May 1825.
317. Ibid.; D.R.Hainsworth, "The New South Wales Shipping Interest 1800-1821: A Study in Colonial Entrepreneurship", Australian Economic History Review, 8 (1968), p.26. Joseph Underwood was actually a free man but was generally associated with the emancipists.

By comparison, only three ships, all fitted out in London, collected sperm whale oil.[318] Solomon Levey warned that good returns were due to the scarcity of skins and doubted that a major sealing industry would develop because of the rash slaughter of seal pups and competition from European sealers.[319]

Shipping lists show that casks of seal oil, seal skins and whale oil formed a bulky portion of most return cargoes from Sydney during the early 1820s. There was some prejudice against shipping oil and wool together but most ships carried mixed cargoes.[320] The consignments of the merchants who shipped wool on the Harvey in November 1825 included seal skins and Pacific products.[321]

Local vessels were also regularly employed in transporting timber from Port Stephens and Port Macquarie and coal from Newcastle to Sydney for reshipment as exports.[322] Timber was a useful export because it required little capital and could be collected quickly. These advantages attracted merchants such as Berry and Wollstonecraft who cut timber on their Shoalhaven property, exporting gum and cedar worth £511 in 1823 and £9,400 in 1826.[323] Cargoes of cedar, rosewood and blue gum planks were despatched to Britain, their weight little problem because of the shortage of return cargoes.[324]

318. "Scaevola", S.G., 1 July 1824.
319. S.G., 8, 15, 22 July 1824.
320. J.Cumpston, Shipping Arrivals and Departures, Sydney 1788-1825 (Canberra, 1964), pp.131-161; S.G., 18 November 1824.
321. S.G., 10 November 1825.
322. Cumpston, op.cit., pp.134-150.
323. Wollstonecraft to Davison, 1 July 1823, Berry Papers ML UCMSS 315/18; Hartwell, op.cit., p.58.
324. Cunningham, op.cit., p.221.

In September 1822, Simeon Lord contracted with the government to purchase cut timber at Newcastle for export to the Cape of Good Hope and Britain. Between November 1822 and October 1823 he shipped timber and coal for export valued at over £2,000 which he paid in wheat.[325] In 1823, Raine and Ramsay loaded the Surrey with a full cargo of cedar from Port Macquarie and Port Stephens for export.[326] In January 1824, a memorial from twenty-two merchants and settlers claimed that timber and wool were their only viable exports and in view of the increased shipping to the colony, neither wool nor fishery oil provided sufficient return cargoes. Timber could increase their export cargoes if lower duties made it competitive on the English market.[327]

Wattle bark for tanning was also exported, fetching £10-£12 a ton in Britain.[328] In November 1825, J.H.Smith exported seventeen tons of mimosa bark.[329] Brisbane regarded the export of timber items as an "interesting experiment" and an important return cargo.[330]

The stimulus to export that was provided by Brisbane's economic policy resulted in colonial exports to Britain more than trebling from 1823 to 1824 and this impetus was maintained as the British market responded to colonial goods.[331] The quality of colonial wool and oil was acknowledged by medals from the Society of Arts for the exports of John Macarthur and John Raine.[332] The Sydney Gazette followed the

325. Lord to Goulburn, 21 August 1822, Simeon Lord 1822-1826, CS-SB 4/1099.2; Return of Timber and Coal to be paid for in Wheat, 16 February 1824, ibid.; Lord to Brisbane, 10 July 1824, ibid.
326. D.Ramsay to J.Ramsay, 30 June 1823, Raine Papers ML MSS 564/1.
327. Brisbane to Bathurst, 27 January 1824, encl., HRA i,X1,204-206.
328. S.G., 4 November 1824.
329. S.G., 10 November 1825.
330. Brisbane to Bathurst, 27 January 1824, HRA i,X1,204; Brisbane to Wilmot-Horton, 12 August 1824, ibid., p.339.
331. P.P., 1825, Vol.XXI, pp.358-359.
332. Ker, "Wool Industry", p.34; Steven, "Exports other than Wool", p.285.

progress of colonial products and was pleased with the variety and success of the items sent to foreign markets.[333] In June 1824, the London Morning Chronicle attributed the increase of exports from New South Wales to the removal of British import duties and to colonial economic conditions. The premium on Treasury bills made it more profitable for merchants to remit in colonial goods than to pay a premium of fifteen to twenty per cent to obtain bills in the colony.[334]

Brisbane encouraged items that could replace imports as well as become exports. Leading settlers had experimented with vines, tobacco and flax but their efforts had limited success because of the lack of skilled labour.[335] By the 1820s many of these problems had been overcome. Import shortages had encouraged the growth of tobacco after 1821[336] and Brisbane hoped that one day New South Wales would be able to supply Britain with 25,000 lbs of tobacco annually.[337] Goulburn was also interested in tobacco cultivation and by 1825 tobacco was flourishing at the government stations at Port Macquarie and Emu Plains and on small farms along the Hawkesbury, producing 3,000 lbs annually.[338] Protective import duties encouraged the merchant T.H.James to build drying sheds and a factory to process the crops of the smaller farmers. Despite smuggling and speculative cargoes of imported tobacco, the local product competed well.[339] There

333. S.G., 22 July, 4 November 1824, 29 September 1825.
334. Morning Chronicle, 21 June 1824.
335. Evidence of Lowe, Howe and Bell in J.Ritchie, The Evidence to the Bigge Reports (2 vols., Melbourne, 1971), Vol.2, Written Evidence, p.49,56, 63,65,68; Fletcher, Landed Enterprise, pp.204-205,207.
336. Bowman to Buchanan, 16 July 1821, Buchanan Papers, Macarthur Collection ML A4266.
337. Brisbane to Craufurd, 18 May 1822, Brisbane Papers PRO PMG1/1.
338. Cunningham, op.cit., p.133; Colonial Returns 1825.
339. S.G., 17 May 1822; "A Tobacco Manufacturer", S.G., 11 June 1825.

was some opposition to the government's prominence as a grower[340] and its "arbitrary and inconsistent" reduction of tobacco duties while the 1825 crop was being harvested threw production into chaos.[341]

Britain's desire for supplies of hemp, flax and timber for naval purposes had stimulated interest in these items from the beginning of the settlement. Early experiments with New Zealand flax had limited success but by 1822 good rope had been made from local flax.[342] In 1824 the Colonial Office sent out 369 barrels of linseed for further experiments with flax but the seed was spoiled on the voyage.[343] Between 1821 and 1825, flax cultivation nearly doubled with seven and a half acres, mainly at Bathurst, as well as some cotton at Newcastle and Port Macquarie.[344] Flax grown at Emu Plains was spun into linen at the Female Factory.[345]

Sugar, an expensive import, was grown successfully at Port Macquarie.[346] Several colonists had made good wines and William Redfern brought a number of skilled vine dressers to the colony in 1824.[347] James Busby, a trained viticulturist, arrived in the same year and was encouraged to continue his work. He planted part of the Orphan School farm with vines and published a book on wine making in 1825.[348]

Brisbane's approach to these activities was openly experimental. He had earlier taken an interest in agricultural

340. Australian, 21 April 1825.
341. Forbes to Wilmot-Horton, 6 February 1827, HRA iv,1,687.
342. Fletcher, Landed Enterprise, pp.205-206; Brisbane to Craufurd, 18 May 1822, Brisbane Papers PRO PMG1/1.
343. Wilmot-Horton to Brisbane, 30 October 1824, with encl., HRA i,X1,390-405; Brisbane to Wilmot-Horton, 15 April 1825, ibid., pp.560-561.
344. Colonial Returns 1825.
345. Brisbane to Wilmot-Horton, 15 April 1825, HRA i,X1,560-561.
346. S.G., 14 October 1824; Cunningham, op.cit., pp.218-219.
347. Fletcher, Landed Enterprise, pp.203-204; Wilmot-Horton to Brisbane, 23 January 1824, with encl., HRA i,X1,203.
348. Busby to Kelman, 19 March, 20 December 1824, 21 May 1825, Kelman/Busby Papers ML MSS 1183; "J.Busby", ADB, Vol.1.

improvements on his family's estate and even John Macarthur, who had little respect for the governor's opinion on most matters, admitted that Brisbane had a knowledgeable interest in farming.[349] Brisbane condemned most colonial agricultural methods as "barbaric" while animals were interbred without "science or system". He was determined to experiment with any crop or method which would improve the situation.[350] Losses among the new crops would be high but "everything must have a beginning". Lack of capital and skill for advanced agriculture were severe limitations and it would be years before many experiments had commercial significance.[351]

Experimental gardens were expanded at the Botanic Gardens in Sydney and by 1825 nearly 3,000 varieties of "useful exotics" such as grape vines, fruit trees, vegetables, teas and grasses were grown.[352] There were also experimental gardens at Emu Plains[353] and at government house, Parramatta under Brisbane's personal supervision.[354] Varieties of cotton seeds, tea plants, tobacco and flax were sent to the governor from acquaintances around the world.[355] Seedlings of artificial grasses and plants were freely available to any colonist who wished to improve his property or experiment with new crops.[356] Pasture improvement had been attempted by some of the larger settlers but Brisbane recognized that there was little incentive to improve pasture when the supply

349. See Chapter 1; J.Macarthur to J.Macarthur jr, 29 January 1823, Macarthur Papers ML A2962.
350. Brisbane to (?), 13 December 1822, Brisbane Papers ML FM4/1626, Section 1.
351. Brisbane to (?), 29 May 1824, ibid.
352. S.G., 16 December 1824, 5 May 1825; Brisbane to Bathurst, 18 March 1825, HRA i,XI,548.
353. S.G., 28 April, 12 May 1825.
354. O. & W.L.Havard, "Some Early French Visitors to the Blue Mountains and Bathurst, Part 2", JRAHS, 24 (1938), p.289.
355. Brisbane to Blane, 22 March 1824, Brisbane Papers ML FM4/1626, Section 1; S.G., 6 March 1823.
356. S.G., 16 September 1824.

of land was almost infinite. It was cheaper to move location than to improve grasses.[357]

Brisbane considered that it was important for settlers to take an active interest in the potential of the colony so he approved the formation of the Agricultural Society of New South Wales in July 1822.[358] Its prospectus drew attention to increasing immigration, the reduction of government expenses which had thrown the colonists onto their own resources, the need for scientific farming in the over-worked settled districts and for improved stock.[359] In its first year, the society attracted over 100 members from among established settlers and new immigrants[360] as settlers and merchants alike recognized their need to develop exports to replace their dependence on Treasury bills.[361] As well as distributing agricultural information, the society imported animals and seeds, awarded prizes for improved stock and encouraged efficient agricultural servants.[362]

One consequence of increased immigration was the availability of shipping for colonial produce. In 1822, forty-eight British ships arrived in Sydney; in 1825, there were eighty-five arrivals of which seventy were British ships.[363] The result was a reduction of freight rates from £5 to £3 15s a ton between 1822 and 1826, providing further incentives to export. Competition for return cargoes

357. Bigge, Agriculture and Trade, p.13; Brisbane to (?), 29 May 1824, Brisbane Papers ML FM4/1626, Section 1.
358. Brisbane to (?), 26 July 1823, Brisbane Papers ML FM4/1626, Section 1.
359. Agricultural Society Prospectus, 5 July 1822, CSIL 4/1753, ff/160-161.
360. S.G., 9 October 1823.
361. Berry to (?), 10 January 1823, second copy, Berry Papers ML UCMSS 315/5.
362. S.G., 15 May 1823, 22 July, 23 September 1824; Agricultural Society of New South Wales, Second Anniversary Address by the President (Sydney, 1824).
363. Colonial Returns 1822, 1825.

after 1824 meant that many ships still sailed to Asia or India for cargoes.[364]

The colonial economy was stimulated by the capital of the new immigrants. Estimates of the amount of capital imports vary from £29,100 in 1825[365] to £2,000,000 for the decade.[366] This capital was transferred by cash or bills or invested in cargoes and was circulated by the new settler's purchases of colonial merchandize and stock.[367] Established settlers who had sold wool in Britain also returned their capital to the colony as imported goods rather than cash.[368] The Sydney Gazette commented that the increasing interest in wool was partly due to the greater availability of capital from immigrants and the Australian Agricultural Company.[369]

Not all capital came from private sources. As well as the Australian Agricultural Company, the Australian Company of Edinburgh and Leith was a highly capitalized Scottish venture formed in 1822. Its promoters included manufacturers whose goods were sold in the colonies and investors who were attracted by the removal of trade sanctions and duty barriers in 1819 and 1822. With a capital of £1,000,000, the Australian Company was involved in shipping, emigration, warehousing and trading.[370] In addition, its notes provided an alternative

364. D.S.Macmillan, Scotland and Australia 1788-1850 (Oxford, 1967), pp.189-190; D.S.Macmillan, "The Rise of the British Australian Shipping Trade, 1810-1827: Its Problems, Progress and Promoters", in A.Birch and D.S.Macmillan (eds.), Wealth and Progress. Studies in Australian Business History (Sydney, 1967), p.15; Cumpston, op.cit., pp.131-161.
365. Sinclair, op.cit., p.61.
366. Hartwell, op.cit., p.59.
367. Butlin, op.cit., pp.191-192; Sinclair, op.cit., p.53.
368. T.Hassall to Thompson, 5 March 1822, Hassall Papers ML A1677/4; E.Hassall to Thompson, 8 July 1822, ibid.; Cunningham, op.cit., p.221; A.T.Yarwood, Samuel Marsden. The Great Survivor (Melbourne, 1977), pp.259-260.
369. S.G., 25 November 1824.
370. Macmillan, Scotland and Australia, p.131,149-150,152-153,173-177,194.

remittance to Treasury bills.[371]

Assessment of Brisbane's efforts to reduce colonial expenses is hindered by a shortage of statistical information. Varying components and different dollar valuations mean that figures are not readily comparable over the four year period. Statistics must be used with caution and regarded as trends.

Colonial revenue was raised from duties on imported spirits, tobacco and manufactures, shipping and wharfage fees, road and bridge tolls, auction, market and slaughtering fees, licences for retailing spirits, quit rents and income from the sale of government property.[372] Brisbane's policies for the hire of convict mechanics, sale of land and premiums on Treasury bills raised additional revenue. Wages of officials appointed in the colony, rewards and police expenses, public works and maintenance were paid from the colonial revenue and most civil departments received some allocation. After 1824, the legislative council could impose duties for specific purposes but the governor, as the representative of the British government, retained control over the distribution of existing non-allocated revenue, such as from the sale of land.[373]

Customs and excise duties were collected by the naval officer, John Piper. Seven-eights of the customs went into colonial revenue, known as the Police Fund, and one-eight was used to support orphans. Other revenue was paid directly to the Police Fund which was administered by the superintendent of police, D'Arcy Wentworth. Bigge recommended a treasurer to manage the colonial revenue and William Balcombe was appointed by the Colonial Office in October 1823.[374]

371. Chisholm to Marshal, 23 May 1825, Chisholm Papers ML A4011.
372. Bigge, Agriculture and Trade, pp.84-92.
373. Colonial Returns 1822, 1823, 1825; J.Atkinson, op.cit., p.140; Melbourne, op.cit., p.119.
374. Bigge, Agriculture and Trade, p.89; Bathurst to Brisbane, 2 October 1823, HRA i,X1,138.

Plans to review the customs office were not implemented by either the Colonial Office or the local authorities.[375]

Colonial revenue fluctuated greatly between 1822 and 1825 as shown in Table 19. Duties on imported spirits were the major component of the colonial revenue and the fall in revenue in 1823 and 1824 was due to mistaken government policy. In 1823 Brisbane greatly increased duties on imported spirits which effectively stopped legal imports from India. By 1825 the disastrous effect on the colonial revenue was recognized and a new scale of duties were introduced in January 1825.[376] In 1825, the major income for the government came from spirit duties, followed at a considerable distance by duties on tobacco and imported goods and the sale of land.[377]

Table 19. Colonial Revenue, 1822-1825.[378]

Year	Colonial Revenue		Revenue from Spirits
1822	£45,211	(£34,628)	£29,881
1823	£36,260	(£33,000)	£18,936
1824	n.a.	(£36,098)	n.a.
1825	£98,221	(£80,726)	£38,363

A parliamentary grant was voted annually to pay the salaries of Crown officials such as the governor, the surveyors and the chaplains. This increased substantially following administrative changes in the New South Wales Act of 1823, as shown in Table 20.

375. Bigge, Agriculture and Trade, p.89; Brisbane to Arthur, 20 June 1825, Arthur Papers ML A2166.
376. Brisbane to Bathurst, 4 February 1825, with encl., HRA i,X1,487-493; Forbes to Wilmot-Horton, 6 February 1825, Catton Papers, Derby.
377. Colonial Returns 1825.
378. Colonial Returns 1822, 1823, 1825. Figures in brackets for 1822-1824 are taken from Brisbane to Bathurst, 3 June 1825, encl., HRA i,X1,622 and converted from dollars at a rate of 4s 4d(4.3s). Figure in brackets for 1825 is from version of 1825 Colonial Returns at HRA i,X111,92. Spirit duties are from Colonial Returns 1822, 1823, 1825.

Table 20. Parliamentary Grant for the Civil Establishment.

Year	Grant for N.S.W. and V.D.L.[379]	Parliamentary Grant in N.S.W. Returns.[380]
1821	£17,081	-
1822	£13,347	£9,829
1823	£15,222	£10,032
1824	£15,294	n.a.
1825	£23,934	£16,617

The largest expense for the British government was the support of the convicts and the military which was paid by Treasury bills drawn by the commissariat. Bigge recommended a commissary of account to supervise this expenditure and William Lithgow was appointed in April 1823.[381] Brisbane was pleased with his work and extended his appointment to audit all colonial finances which he hoped would introduce more systematic arrangements and reduce expenses.[382]

The major achievement of Brisbane's economic policies was the reduction in Treasury bills drawn by the colonial government, as shown in Table 21. The restriction was most dramatic in 1823 when Brisbane's claim that his policy would save the British government £100,000 seems justified.[383] The figures for 1824 and 1825 show continued but less effective restraint. Brisbane regarded the high premiums on Treasury bills as a valuable addition to colonial revenue as well as

379. P.P., 1821, Vol.XVI, p.16; P.P., 1823, Vol.XIII, p.282; Wilmot-Horton to Brisbane, 30 June 1822, HRA i,X,652-653; Wilmot-Horton to Brisbane, 17 April 1824, 7 April 1825, HRA i,XI,250-251,559-560.
380. Colonial Returns 1822, 1823, 1825.
381. Bigge, Agriculture and Trade, p.95; Harrison to Lithgow, 22 April 1823, WO 58/116, p.145; Harrison to Brisbane, 13 December 1823, HRA i,XI,186.
382. Brisbane to Bathurst, 2 October 1824, HRA i,XI,379.
383. Brisbane to Craufurd, 14 February 1822, Brisbane Papers PRO PMG1/1; Brisbane to (?), 26 July 1823, Brisbane Papers ML FM4/1626, Section 1.

reducing expenditure.[384] The real economic impact of Brisbane's policies was less a result of the premiums than the reduction in costs through devaluation of the dollar and the prevention of unnecessary Treasury bill exchanges.[385] Total revenue and expenditure is shown in Table 22.

Table 21. Treasury Bills, 1821-1825.[386]

Year	Treasury Bills Drawn for N.S.W.	Parliamentary Estimates	Premiums on Treasury Bills
1821	£166,315	£100,000	-
1822	£229,826 (£228,136)	£100,000	£ 1,927 (£ 2,870)
1823	£ 95,828 (£102,013)	£150,000	£ 17,021 (£ 18,966)
1824	£199,112	£150,000	n.a. (£ 26,260)
1825	n.a. (£170,899)	£120,000	£ 23,042

Table 22. Revenue and Expenditure, 1822-1825.[387]

Year	Revenue	Expenditure
1822	£ 310,502	£ 267,115
1823	£ 180,396	£ 194,184
1824	£ 245,822	n.a.
1825	£ 295,656	£ 231,038

384. Brisbane to (?), 13 December 1822, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Sir Henry (Makdougall?), 23 March 1823, ibid.
385. Butlin, op.cit., p.149, fn.25.
386. Figures for Treasury bills are taken from Brisbane to Bathurst, 3 June 1825, encl., HRA i,X1,624. Treasury bill figures in brackets are from Colonial Returns 1822, 1823, 1825. Parliamentary estimates of Treasury bill expenditure are from P.P., 1821, Vol.XV1, p.6; 1822, Vol.X1X, p.452; 1823, Vol.X111, p.276; 1824, Vol.XV1, p.255; 1825, Vol.XV111, p.345. Premiums on Treasury bills are taken from Colonial Returns 1822, 1823, 1825. Premium figures in brackets are from Brisbane to Bathurst, 3 June 1825, encl., HRA i,X1,623.
387. Revenue figures are composed of colonial revenue (lowest figures), parliamentary grants and Treasury bills as given in Colonial Returns 1822, 1823, 1825 with expenditure from the same sources and converted from dollars at a rate of 4.3s. The revenue figure for 1824 is compiled from colonial revenue and Treasury bills in Brisbane to Bathurst, 3 June 1825, encls., HRA i,X1,622,624 with the parliamentary grant minus the estimate for Van Diemen's Land in Wilmot-Horton to Brisbane, 17 April 1824, ibid., p.250. Compare Hartwell, op.cit., p.64 who did not include the parliamentary grant and commissary figures in his statistics for 1822 and 1823 but did include the three sources of revenue in his figures for 1825, which are the same as Table 22.

Attitudes to Brisbane's economic policies remained antagonistic throughout his government[388] though there was some mellowing as the economy survived the early shock. The immediate effect of the dollar policy in 1822 was a serious lack of confidence among the merchants and settlers and a general stagnation of trade.[389] During 1823, when the reduction on Treasury bills was most severe, there were gloomy predictions of disaster. John Oxley could see "nothing but ruin in the prospects of almost every settler".[390] Edward Wollstonecraft deplored the "criminal alteration of the currency" and the "absolute annihilation of government expenditure".[391]

Not all comments were so antagonistic. William Lawson acknowledged the problems but was confident of the ultimate success of the colonial government's strategy:

> The economical plan which the present Government are on, has made a strange change....The energies of the Colony must now be alive and exports found so as to meet our imports; until then we must be poor, but time, patience and industry will bring the colony forward, nothing can now keep it back. 392

John Macarthur's comment was more restrained:

> I am not one of the multitude who quarrel with Government for attempting to reduce their expences... but it should have been done moderately. 393

The worst of the crisis had passed by late 1823 and the commercial sector had recovered its confidence by 1824.[394]

388. Berry to Wyatt, 26 November 1825, Berry Papers ML UCMSS 315/5; J.Atkinson, op.cit., p.52,133.
389. S.G., 28 June 1822; Berry to Davison, 28 November 1822, Berry Papers ML UCMSS 315/5.
390. Oxley to King, 20 April 1823, King Papers ML A1976.
391. Wollstonecraft to Davison, 1 July 1823, Berry Papers ML UCMSS 315/18.
392. Lawson to Sloper, 5 August 1823, Lawson Papers, Corporation of London Record Office MS 6.2.
393. J.Macarthur to J.Macarthur jr, 31 January 1824, Macarthur Papers ML A2899.
394. D.Ramsay to J.Ramsay, 30 June 1823, 2 February 1824, Ramsay Papers ML MSS 564/1; S.G., 15 July 1824.

Despite the disruption of the Almorah incident, Brisbane's administration closed on a prosperous note.[395] In a review of the colonial economy under Brisbane, the colonists conceded that the dollar system had been only a partial disaster. Fears of bankruptcy had been neutralized by the fresh capital that had accompanied the new settlers and, contrary to expectations, agriculture, commerce and manufacturing had prospered with surprising confidence.[396] The settlers had become more aware of the potential of the colony during the four years of Brisbane's government. Commercial activities no longer rested on the security of government expenditure but had developed an independent momentum.[397]

395. Australian, 27 October 1825; S.G., 15 December 1825.
396. Farewell Address to Brisbane, 26 October 1825, HRA iv,1,628-629.
397. Butlin, op.cit., p.190; Holder, op.cit., p.65.

Chapter 7 - Brisbane's Administration Under Attack.

Despite the unpopularity of some measures, especially the dollar system, the sustained attacks on Brisbane's administration were not based on public issues. Motivated by private jealousies, these intrigues rejected Brisbane's delegation of authority and choice of advisers.

Only a handful of colonists and officials were involved[1] but they were men who by their wealth and experience were among the most respected and influential free residents. When their wishes were thwarted, they appealed to friends and officials in Britain, establishing a

> system of private misrepresentation, by means of which a very improper influence has been held over this Colony by a few persons. [2]

The most damaging attacks were made by the Reverend Samuel Marsden, the principal chaplain, Barron Field, judge of the Supreme Court, Hannibal Macarthur, a settler and magistrate, and his uncle John Macarthur, Sir John Jamison, another settler and magistrate, and Captain Phillip Parker King, son of Governor King.[3]

Although others complained to the British government about the colonial administration, they lacked the status of these six men.[4] The passive support of John Oxley and Alexander Berry and the apparent lack of interest by other eminent settlers such as Robert Townson emphasized that the

1. Brisbane to Arthur, 1 September 1825, Arthur Papers ML A2166; Brisbane to Bathurst, 10 September 1825, HRA i,X1,813; Brisbane to Bruce, 1 November 1825, Brisbane Papers ML UCMSS 329.
2. Brisbane to Bathurst, 28 September 1825, HRA i,X1,851.
3. "B.Field", ADB, Vol.1; "J.Jamison", "P.P.King", "H.Macarthur", "J.Macarthur", "S.Marsden", ibid., Vol.2.
4. e.g. Vickers Jacob. Bathurst to Brisbane, 3 March 1823, HRA i,X1,49-58; Brisbane to Bathurst, 3 September 1823, ibid., pp.119-123; J.Macarthur to Mitchell, 1 April 1825, Mitchell Papers ML A2026.

attacks were generally regarded as personal rather than public. There was no comparable activity by the wealthy former convicts. Their status in the colony did not encourage the same expectations of personal influence nor could they command the support of powerful friends in Britain.

Vitriolic private feuds were common in New South Wales but by the time of Macquarie's departure in February 1822 there were signs of a serious division among the leading officials and free settlers who had hoped to influence the new governor.[5] Initially Brisbane was receptive to the suggestions of the larger free settlers, the "discountenanced noblesse" of his predecessor's administration.[6] His convict and land policies were influenced by their opinions[7] and his private letters echoed their complaints of the corruption and bad influence of former convicts in Macquarie's government and the dominant role of Mrs Macquarie.[8] The new governor's deliberate coolness toward the favourites of the former administration angered Mrs Macquarie[9] and both Marsden and the principal surgeon, James Bowman, believed that in the two months before their departure Macquarie and his wife aggravated personal conflicts among the settlers.[10]

The wealthier free settlers became uneasy when Brisbane persevered with his plans for strict economy.[11] The governor

5. W.C.Wentworth, Statistical, Historical and Political Description of the Colony of New South Wales (1819 and facsimile edition Adelaide, 1978), p.28; Berry to Barnard, 15 February 1822, Berry Papers ML UCMSS 315/5.
6. S.G., 21 July 1825.
7. See Chapters 3 and 5.
8. Compare Marsden to Bigge, 29 January 1822, ML BT Box 27, pp.6686-6687,6690 with Brisbane to Craufurd, 9 March, - July 1822, Brisbane Papers PRO PMG1/1.
9. Marsden to Bigge, 29 January 1822, ML BT Box 27, p.6690.
10. Marsden to Bigge, 11 February 1822, ibid., p.6522; Bowman to Buchanan, - February 1822, Buchanan Papers, Macarthur Collection ML A4266.
11. Bowman to Buchanan, - February 1822, Buchanan Papers, Macarthur Collection ML A4266.

turned for advice on economic matters to his officials, the colonial secretary and the deputy commissary general, and throughout May, June and July 1822 leading settlers failed to undermine their influence.[12] At this point the accumulated personal antagonisms of the preceding six months exploded.

On 31 July 1822, Sir John Jamison and Dr James Hall visited the home of Dr Henry Grattan Douglass, a Parramatta magistrate who supervised the Female Factory. Douglass was not at home but Hall spoke privately with a young convict servant, Ann Rumsby, who had been transported aboard the ship on which Hall was surgeon. That evening Hall told the Reverend Samuel Marsden that Ann feared she would be ruined if she remained with Douglass and asked Marsden to remove her.[13] Jamison took no public interest in Hall's complaint. On 12 August, Hall again raised the matter and swore an affidavit of Ann's charges against her master. Two days later he requested Marsden as a magistrate and principal chaplain to allow him to question the girl before the magistrates so that charges could be laid against Douglass.[14] Douglass and Ann did not attend the magistrates' inquiry. Insulted by such conduct from a fellow magistrate, the Parramatta magistrates resolved not to sit with Douglass.[15]

Hall appealed to the governor for an investigation into Douglass's behaviour and was offended when the colonial

12. See Chapter 6.
13. Brisbane to Bathurst, 6 September 1822, with encls., HRA i,X,744-780; Stephen to Wilmot-Horton, 2 September 1824, HRA iv,1,556-567. For a narrative of the details of this incident see C.H.Currey, Sir Francis Forbes (Sydney, 1968), pp.51-68.
14. Hall's affidavit and memorandum, 12 August 1822, HRA i,X,770-771; Hall to Marsden, 14 August 1822, ibid., pp.764-765.
15. Proceedings of the bench of magistrates, Parramatta, 16 August 1822, ibid., pp.750-751.

secretary demanded an explanation of Hall's association with the girl.[16] A few days later, the Parramatta magistrates questioned Ann Rumsby who repeatedly denied that Douglass had attempted to seduce her. She had complained to Hall because she objected that Douglass had arranged for her marriage to another convict servant. Since Ann's testimony did not corroborate Hall's affidavit, the magistrates found her guilty of perjury and sentenced her to Port Macquarie for the remainder of her sentence.[17]

This incident caused a "lamentable disturbance among the principal families of the colony"[18] and was the foundation for bitter quarrels throughout the decade. The central figure was Henry Grattan Douglass. Born in Ireland in 1790, Douglass had a brief career as an army surgeon before accepting a civil medical appointment in Ireland. From 1815 to 1820 he continued his medical studies and was elected to the Royal Irish Academy for his research into typhus. Douglass was also active in the prison reform movement and was secretary for the Prison Discipline Society. Gambling debts and financial difficulties forced him to seek a position as assistant surgeon in New South Wales where he arrived with his wife and young family in May 1821, bearing favourable recommendations from leading Anglo-Irish families and evangelical reformers.[19]

16. Hall to Brisbane, 16 August 1822, HRA i,X,765-766; Goulburn to Hall, 17 August 1822, ibid., p.771; Hall to Goulburn, 19 August 1822, ibid., pp.771-773.
17. Proceedings of the bench of magistrates, Parramatta, 19 August 1822, ibid., pp.753-761.
18. Hall to F.Goulburn, 6 September 1822, encl. in H.Goulburn to Wilmot-Horton, 31 July 1823, CO 201/144, f.347.
19. "H.Douglass", ADB, Vol.1; Buxton to Wilmot-Horton, 28 November 1824, Catton Papers, Derby; H.Goulburn to Bathurst, 28 November 1824, Bathurst Papers BM 57/15, p.1874; Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329; A.Atkinson, The Position of John Macarthur and His Family in New South Wales Before 1842, Unpublished M.A.Thesis, University of Sydney, 1971, p.239.

Douglass was welcomed by Frederick Goulburn who suggested to Macquarie that Douglass be stationed at Parramatta where his experience would be useful at the female prison.[20] Macquarie appointed Douglass to the general hospital at Parramatta where he would "have considerable Private Practice and other advantages" and made him a magistrate.[21] Goulburn and Douglass became close friends and confidants. They were of a similar age and shared military experiences and intellectual interests.[22] Goulburn had frequent access to the governor and strong personal links with the British government through his elder brother. He had few friends in the colony and settlers and officials were jealous of his friendship with Douglass. Their hostility increased as they realized Brisbane's dependence on the colonial secretary and they feared that Goulburn and his friend would reduce their influence with the governor.[23]

Douglass's positions as magistrate, doctor and supervisor of the Parramatta Female Factory meant that he was in frequent contact with the influential Parramatta settlers. He was only thirty-two in 1822 and many found him officious and disrespectful toward those who believed themselves to be his superiors. Douglass had no personal investment in the colony and was in debt to two leading settlers, Marsden and Jamison. The "old patriarchs" sincerely believed that

20. F.Goulburn to H.Goulburn, 21 July 1821, Catton Papers, Derby.
21. Macquarie to Bathurst, 24 July, 30 November 1821, HRA i,X,538,583.
22. Goulburn's evidence, encl. in Brisbane, Forbes and Scott to Bathurst, 11 August 1825, HRA i,X1,784; Philosophical Society of Australasia, "Minutes, 1821-1822", Journal and Proceedings of the Royal Society of New South Wales, 55 (1921), Appendix.
23. See Chapter 2; Note by J.Macarthur, c.1822, quoted in S.M.Onslow, Some Early Records of the Macarthurs of Camden (1914 and Adelaide, 1973), p.359.

Douglass lacked the experience and tact for such extensive authority.[24] As early as October 1821, the principal surgeon cautioned Douglass that he had received complaints about his work.[25] In July 1822, the superintendent of the Female Factory, Francis Oakes, resigned after complaining of Douglass's management.[26]

The accusations of immorality against both Douglass and Hall were not the real issue underlying the conflict.[27] Marsden had known of Hall's complaint for two weeks but only vaguely warned Douglass to send the girl back to the Factory.[28] When Douglass heard of the allegations, he asked fellow magistrate Hannibal Macarthur to interview Ann. She assured him that Douglass was not guilty of any impropriety.[29] The ensuing investigation was held even though one of the presiding magistrates, Hannibal Macarthur, knew that Hall's allegations were based on a misunderstanding. Hall had been described as a religious and gentlemanly person but his conduct was "greatly deficient in decorum and delicacy". He disregarded the "flagrant impropriety" of kissing the female

24. Jamison to Bathurst, 2 September 1822, CO 201/111, f.365; Marsden to Bathurst, 16 January 1824, CO 201/169, f.366; Forbes to Wilmot-Horton, 30 October 1825, HRA i,X1,957; Brisbane to Bruce, 4 July 1825, Brisbane Papers ML UCMSS 329; CO Minute, Brisbane to Bathurst, 21 February 1824, CO 201/150, ff.58-59; Browne to Douglass, 17 December 1824, CO 201/169, f.97; A.T.Yarwood, Samuel Marsden. The Great Survivor (Melbourne, 1977), p.256.
25. Bowman to Douglass, 16 October 1821, Bowman's Medical Letter Book 1819-1824, Macarthur Collection ML A4246.
26. Douglass to Goulburn, 12 June 1822, CSIL 4/1756, f.40; Oakes to Goulburn, 24 June 1824, CSIL 4/1757, f.40; Oakes to Douglass, 4 July 1822, ibid., f.168; Oakes to Goulburn, 8 July 1822, ibid., f.169. The quarrel between Oakes and Douglass almost went to the supreme court. Brisbane, Forbes and Scott to Bathurst, 11 August 1825, encl., HRA i,X1,787. Oakes had earlier quarrelled violently with the previous magistrate in charge of the Factory, Hannibal Macarthur. H.Macarthur to Macquarie, 15 February 1821, CSIL 4/1748, f.237.
27. Brisbane to Craufurd, 14 September 1822, Brisbane Papers PRO PMG1/1; Forbes to Wilmot-Horton, 19 May 1823, CO 201/146, f.446; Stephen to Wilmot-Horton, 2 September 1824, HRA iv,1,558.
28. Brisbane to Bathurst, 6 September 1822, HRA i,X,745-746.
29. H.Macarthur's statement, ibid., pp.762-763.

prisoners in his charge and of arranging for one to meet him in a secluded spot.[30]

The resolution of the Parramatta magistrates not to act with Douglass was provoked by Douglass's behaviour on the evening before the investigation. Douglass had learnt that Marsden would investigate Hall's complaint but neither Marsden nor Hall would inform him of the charges whilst Ann remained in his home. Hannibal Macarthur tried to persuade Douglass to return the girl to the Factory and to submit to their investigation. Douglass lost his self-control and insulted the magistrates, particularly Marsden. No-one but the governor should examine his conduct and "he did not care a flip of his finger for all the Men in the Colony except Two", presumably Goulburn and Brisbane.[31]

This was a most injudicious outburst from a junior magistrate. His refusal to submit to an inquiry implied that he had something to hide but more seriously his contempt for the other members of the Parramatta bench was an insult to the wealthiest and most eminent colonists. Marsden, Hall and another magistrate, Palmer, were nearby and Hannibal Macarthur related Douglass's insults to them.[32] Douglass's failure to appear with Ann at the inquiry was a further gesture of contempt.[33] The four magistrates, Marsden, Hannibal Macarthur, John Palmer and his son George, declared that they would no longer associate with a fellow magistrate who treated them with

30. J.Mitchell, Journal of a Voyage to New South Wales...7 April 1822 - 11 May 1823, University of Edinburgh Library DC7.123, p.40; Stephen to Wilmot-Horton, 2 September 1824, HRA iv,1,565-566.
31. H.Macarthur's statement, encl., Brisbane to Bathurst, 6 September 1822, HRA i,X,762.
32. Ibid.
33. Douglass had taken Ann to Sydney to be questioned by the governor. Chief Justice Forbes considered that this was most improper while the matter was being investigated by the magistrates. Forbes to Wilmot-Horton, 29 June 1825, Catton Papers, Derby.

such disrespect.

The colonial government demanded the resignations of the magistrates if they persevered against Douglass.[34] Supported by another Parramatta magistrate, John Blaxland, they refused to withdraw their resolution or to resign. Douglass's "insulting manner" toward their investigation had followed an earlier incident in which Douglass had reversed the judgement of the magistrates. Now, convinced of his immorality, they were determined no longer to

> submit ourselves to the insolent conduct of a person by whom we consider the sacred functions of the Magistracy are perverted and brought into Public contempt. 35

Their resolution virtually removed Douglass from the bench. Brisbane would not tolerate such a "daring assumption of authority". Douglass's services and loyalty to his government were more valuable than any five magistrates. He did not believe the charges against Douglass and the investigation had not proved them. Nor would he accept the magistrates' interrogation and sentence of Ann Rumsby because "she spoke not that truth, as they would have it spoken". Brisbane dismissed the five magistrates:

> For the little command of temper that is exercised in this Colony, would never have permitted the whole six to have remained in the same Commission, and acted in the same neighbourhood, without their becoming violaters instead of Conservators of the Peace. 36

34. Goulburn to Marsden, H.Macarthur, J. and G.Palmer, 21 August 1822, HRA i,X,773.
35. Marsden, H.Macarthur, J. and G.Palmer and J.Blaxland to Brisbane, 22 August 1822, ibid., p.774; Marsden to Bathurst, 16 January 1824, CO 201/169, f.366.
36. Brisbane to Bathurst, 6 September 1822, HRA i,X,748-750; Brisbane to Craufurd, 14 September 1822, Brisbane Papers PRO PMG1/1; S.G., 30 August 1822.

Brisbane's support for Douglass seemed to confirm fears of Douglass's personal influence. Douglass made the "most extraordinary boastings" of his power and influence[37] and over the next few years he was called the "avowed and very intimate friend of the Governor's"[38] and Brisbane's "baneful and infamous coadjutor and adviser".[39]

Douglass was the intimate friend of Goulburn not of Brisbane.[40] Brisbane introduced Douglass to his friends in Britain as the "bosom friend" of the colonial secretary.[41] The governor thought that Douglass was "perfectly the Gentleman"[42] and the two men shared an interest in science and philosophy[43] but Douglass's visits to government house at Parramatta were as often professional as social calls. The governor had a young family and both he and Lady Brisbane suffered poor health.[44] Douglass was the resident government doctor and a friend of Lady Brisbane's physician, Dr Donald Macleod.[45] Brisbane's support for Douglass originated in the Rumsby incident but was maintained by the constant attacks on Douglass.

Oxley implied that Brisbane was forced to dismiss the magistrates because Goulburn threatened to resign if his friend was not supported.[46] Goulburn discounted the "erroneous

37. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.29.
38. Stephen to Hay, 15 July 1826, CO 201/175, f.379.
39. Scott to Wilmot-Horton, 13 January 1826, CO 201/179. f.401.
40. Brisbane later testified that Douglass had been a visitor "from time to time" whilst Goulburn stated that Douglass was his "constant visitor" and they were on "terms of friendship and confidence". Brisbane, Forbes and Scott to Bathurst, 11 August 1825, HRA i,X1,784.
41. Brisbane to Bruce, 30 January, 16 February 1824, Brisbane Papers ML UCMSS 329.
42. Brisbane to Bruce, 30 January 1824, ibid.
43. Philosophical Society of Australasia, op.cit., Appendix.
44. Makdougall to Blaxland, - December 1829, Blaxland Papers ML A1322.
45. R.Crawford to H.Crawford, 14 March 1822, Brisbane Papers GA Ardgowan 295; J.Macarthur to J.Macarthur jr, 19 October 1823, Macarthur Papers ML A2899.
46. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.31; Scott to Wilmot-Horton, 20 June 1825, CO 201/168, f.163.

assumptions" of Douglass's influence[47] but his frequent interference on Douglass's behalf gave substance to these fears.[48] In 1824 he recommended Douglass as a suitable representative for the governor in Britain and it was only then that Brisbane referred to Douglass as his confidant.[49] Douglass's account of his mission to Britain indicated that their close relations were of recent date.[50] In discussions on policy and in defending his own reputation, Douglass was ignorant of several points which he should have known had he been the governor's intimate confidant.[51]

A meeting of eight Sydney magistrates, including both judges and the surveyor-general, endorsed the stand of their Parramatta colleagues against Douglass.[52] Their involvement in a quarrel within one bench broadened the conflict. Opposition to the dollar system had been mounting and a memorial, signed by two-thirds of the magistrates, had been presented to Brisbane in the midst of the Parramatta dissension.[53] The eight magistrates who supported the Parramatta bench included Edward Wollstonecraft who had drafted the memorial against the dollar system.[54] Five others, Judge Field, Charles Throsby,

47. Goulburn to Jacob, 5 November 1822, CSOL 4/3506, p.409.
48. C.Macarthur to King, 20 November 1822, King Papers ML A1976; Oxley to King, 31 January 1823, ibid.; Goulburn to Wollstonecraft, n.d.(1821-1822?), Berry Papers ML UCMSS 315/18. The Goulburn family in Britain also used their influence to support Douglass. Palmerston to Wilmot-Horton, 10 August 1825, CO 201/165, f.208.
49. Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329; Brisbane to Wilmot-Horton, 21 February 1824, CO 201/150, f.60 (incorrectly dated as 21 February 1822 in HRA i,X,624); Forbes to Wilmot-Horton, 29 June 1825, Catton Papers, Derby.
50. Douglass to Wilmot-Horton, 21 August 1824, HRA i,X1,357.
51. See Chapter 5. Most importantly for his own reputation, Douglass was not aware that the governor had seen Marsden's letter about Ring. Douglass to Wilmot-Horton, 26 August 1824, CO 201/155, f.389. See below.
52. Resolution of a meeting of magistrates, 23 August 1822, HRA i,X,763.
53. Brisbane to Bathurst, 2 September 1822, encl., ibid., pp.738-744; S.G., 30 August 1822. See Chapter 6.
54. Wollstonecraft to Goulburn, 7 August 1822, CSIL 4/1761, f.99.

Edward Riley, H.C.Antill and Thomas Macvitie, had signed the memorial and John Oxley supported it privately. Only one of the Parramatta magistrates, G.T.Palmer, had signed it.[55] In this context, the support of the other magistrates against Douglass was easily interpreted as opposition to the policies of the colonial government and two of its influential officials, Goulburn and his friend Douglass.[56]

The removal of five eminent settlers from the bench created a sensation. Those who had opposed Brisbane's economic policy, such as Alexander Berry, Sir John Jamison and John Oxley, feared that the dismissal of the magistrates was designed to silence criticism.[57] It was a major defeat for settlers who had hoped to exert influence. Robert Howe and the Reverend Benjamin Carvosso, who had noted the earlier displacement of Macquarie's favourites, recognized the significance of this defeat:[58]

> All his (Macquarie's) bitterest enemies who appeared to gain such overwhelming ascendency in the new administration,...by various unexpected circumstances in the short space of seven months turn themselves round, oppose the new administration and become inimical to Sir Thomas, their patron and friend. [59]

Douglass, with the support of Goulburn, prosecuted Hall for libel and Brisbane hoped that the trial would resolve the charges of immorality. The governor accused the magistrates of conspiracy against Douglass[60] but the Rumsby incident had

55. Brisbane to Bathurst, 2 September 1822, encl., HRA i,X,741-744; Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, pp.15-22.
56. Atkinson noted that only strong antipathy to Goulburn and Douglass could have united these otherwise antagonistic magistrates. A.Atkinson, op.cit., p.201.
57. Berry to (?), 10 January 1823, Berry Papers ML UCMSS 315/5; Jamison to Bathurst, 2 September 1822, CO 201/111, f.365-366; Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.31.
58. Carvosso to Wesleyan Secretary, 29 October 1822, ML BT Box 52, pp.1188-1189.
59. R.Howe, Diary, 30 August 1822, ML B846/1.
60. Goulburn to Moore, 23 August 1822, CO 201/145, f.20; Hall to King, 4 September 1822, CO 201/144, f.5; Brisbane to Bathurst, 6 September 1822, HRA i,X,750; Brisbane to Craufurd, 14 September 1822, Brisbane Papers PRO PMG1/1

been conceived in the heat of the moment. With greater consideration, a more subtle, prudent and effective attack could have been made.[61] Once released, the antagonisms did not disappear.

The Reverend Samuel Marsden was the most prominent of the dismissed magistrates. Brisbane complained of his "daily neglect of the Spiritual concerns...for the sake of attending to his own multitudinous temporal affairs"[62] and accused him of a fondness for intrigue because of his persistent attacks on Douglass.[63] His dismissal was greeted with ill-concealed delight by some of his critics though Marsden, blaming Goulburn, accepted his fall with apparent humility.[64] He was disappointed with Douglass because he had hoped for a colleague to work among the women convicts.[65] Marsden went to Van Diemen's Land in early 1823 but shortly after his return to Parramatta he and Douglass clashed again.[66]

On 12 May 1823, the Parramatta magistrates were informed that Marsden had allowed his convict servant, James Ring, to work for himself contrary to regulations. Marsden was summoned before the bench and on admitting the circumstances was fined and Ring was returned to government labour. Marsden disputed the charge, refused to pay the fine and demanded that the case by heard by a full bench of magistrates. A warrant of distress was executed on Marsden's property to recover the fine and Marsden retaliated with an action of

61. Marsden to Bathurst, 16 January 1824, CO 201/169, f.366.
62. Brisbane to Bathurst, 31 August 1822, HRA i,X,725.
63. Brisbane to Wilmot-Horton, 31 January 1825, Catton Papers, Derby.
64. R.Howe, Diary, 22 November 1822, ML B846/1; Carvosso to Wesleyan Secretary, 29 October 1822, ML BT Box 52, p.1189; Marsden to Pratt, 10 April 1824, ibid., pp.1249-1250.
65. Marsden to Pratt, (September 1822?), 12 July 1823, ML BT Box 52, p.1069, 1263.
66. Yarwood, op.cit., p.233.

trespass against the magistrates.[67]

The magistrates were Douglass, William Lawson and Dr Macleod. Although Brisbane felt that Douglass could have acted with less haste, the magistrates, before taking any action against Marsden, had referred the matter to the governor who declined to intervene.[68] Marsden complained of Douglass's "unwarrantable oppressions"[69] but he did not allege malice in his prosecution of the magistrates.[70] With the issue resolved in court, Brisbane dismissed it as a trial of strength between Douglass and Goulburn and Marsden and Field.[71]

Marsden also clashed with Douglass over his management of the Female Factory. Douglass would not allow the women to take their children to church to be christened. Marsden objected to performing services in the Factory where there were no men to act as sponsors for the children. In April 1823 he brought the matter to Brisbane's attention rather than quarrel personally with Douglass.[72] Brisbane agreed with Marsden's complaint but would not interfere because the management of the Factory was Douglass's responsibility.[73] Marsden was infuriated:

67. Brisbane, Forbes and Scott to Bathurst, 10 August 1825, with encls., HRA i,X1,717-781; Douglass to Wilmot-Horton, 21 August 1824, with encls., ibid., pp.353-359. For a narrative of the legal intricacies of this case see Currey, op.cit., pp.135-148.
68. Lawson, Douglass and Macleod to Goulburn, 17 May 1823, HRA i,X1,767; Goulburn to Bench of Magistrates, 21 May 1823, ibid., p.358; Douglass and Lawson to Marsden, 28 May 1823, ibid., p.358; Brisbane to Wilmot-Horton, 31 January 1825, Catton Papers, Derby; Currey, op.cit., pp.138-139.
69. Marsden to Pratt, 12 July 1823, ML BT Box 52, p.1296; Marsden to Pratt, 13 January 1824, ML BT Box 53, p.1363.
70. Judgement of the Supreme Court, Marsden v. Lawson and Douglass, HRA i,X1, 780; Douglass to Wilmot-Horton, 7 October 1824, CO 201/169, f.64.
71. Brisbane to Wilmot-Horton, 31 January 1825, Cattton Papers, Derby.
72. Marsden to Brisbane, 22 April 1823, CSIL 4/1764, f.92; Marsden to Brisbane, 18 October 1824, Marsden Papers ML A1993.
73. Bathurst to Brisbane, 30 October 1824, HRA i,X1,389.

> I do not see what the civil magistrate had to do with the duty of the clergy - this is merely done to annoy and distress. 74

After conferring with the colonial clergy, he complained to the missionary society and the bishop of London.[75]

Marsden spent the latter half of 1823 in New Zealand.[76] During his absence, a despatch arrived from Bathurst approving Brisbane's dismissal of the magistrates.[77] When Marsden returned, his enmity toward Douglass hardened. A.T.Yarwood, Marsden's biographer, perceived this change but although he acknowledged its profound influence on Marsden's subsequent behaviour in colonial affairs, he did not investigate its cause. In his obsession to destroy Douglass, Marsden resorted to deliberate misrepresentation and careful intrigue.[78]

The colonial government suddenly dismissed the committees of the Male and Female Orphan Schools and the Native Institute in January 1824. Marsden had been a prominent member of the committees since their foundation and his fellow dismissed magistrates, Hannibal Macarthur and the Palmers, as well as the two judges were also members.[79] The old committees were relieved from the "irksomeness of their past duties" by a new committee of Goulburn, Douglass and the Reverend Thomas Reddall who had been sent out in 1820 to teach the Bell system of education.[80] The change was due to the arrival of a new superintendent and the imminent

74. Marsden to Pratt, 12 July 1823, ML BT Box 52, p.1296.
75. Ibid.; Marsden to the Bishop of London, 10 July 1823, CO 201/156, f.178; Marsden to the colonial clergy, 28 May 1823, CSIL 4/1764, f.93.
76. S.G., 24 July, 4 December 1823.
77. Bathurst to Brisbane, 1 April 1823, HRA i,X1,74.
78. Yarwood, op.cit., p.249.
79. J.T.Bigge, Report of the Commissioner of Inquiry on the State of Agriculture and Trade in the Colony of New South Wales (1823 and facsimile edition Adelaide, 1971), pp.71-72.
80. S.G., 1 January 1824; "T.Reddall", ADB, Vol.2.

departure of both judges.[81] Brisbane denied that personal antagonisms were behind it[82] but in his private letters he was angry that the old committees had quarrelled with Reddall,[83] a close friend of the colonial secretary.[84] The summary dismissal of leading clerics and settlers who had worked for years in a voluntary capacity was an unnecessarily tactless gesture.

By January 1824, Marsden had suffered the insults and officiousness of Douglass on a number of public occasions and now saw him interfering with the baptism of children and the orphan school committees.[85] Marsden's sense of ill-usage was fostered by the men chosen as his replacements - Reddall, a junior cleric, young and inexperienced in colonial matters;[86] Douglass, a man whose morality and character Marsden abhorred and Goulburn who manipulated the governor's authority.

In January 1824, Marsden wrote to the Home Secretary, Robert Peel, about his convict servant James Ring. On the surface, this was an appeal for clemency for Ring who had absconded a few weeks after the magistrates had removed him from Marsden's service. In detail, the letter criticized Douglass's treatment of both Marsden and Ring during the magisterial proceedings.[87]

Marsden had learnt during his missionary visit that Ring

81. S.G., 1 January 1824; Walker to Watson, 13 March 1824, ML BT Box 53, p.1401; Brisbane to Bathurst, 23 May 1825, HRA i,X1,614.
82. Brisbane to Bathurst, 23 May 1825, HRA i,X1,614.
83. Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329.
84. James Macarthur to John Macarthur, 12 February 1824, Macarthur Papers ML A2962.
85. Yarwood did not discuss these incidents. The Wesleyans felt that they had gained at the expense of the Anglican clergy in the rearrangement of the orphan and native schools. Walker to Wesleyan Secretary, 26 January 1824, ML BT Box 53, p.1372; Walker to Watson, 13 March 1824, ibid., p.1401.
86. Reddall had not attended Marsden's meeting to discuss the baptism of the children at the Factory. Marsden to the Bishop of London, 10 July 1823, encls., CO 201/156, f.178 ff.
87. Marsden to Peel, 28 January 1824, HRA i,X1,307-310.

had escaped to New Zealand but he did not inform the colonial authorities. When he approached the governor for permission to appeal on Ring's behalf, Brisbane thought that Ring had only taken to the bush. Marsden was anxious to send the letter by a ship that was about to sail so the governor had no opportunity to study its careful implications. The Colonial Office, interpreting Brisbane's sanction of the letter as confirmation of Marsden's charges, ordered the immediate dismissal of Douglass from the magistracy.[88]

Douglass feared that he had made an inflexible enemy of another dismissed magistrate, Hannibal Macarthur.[89] Although dissatisfied with Brisbane's government, Hannibal Macarthur was initially content to let others complain:

> I can expect nothing neither can I lose anything and as an unexposed tho' deeply interested spectator I view the approaching contest of power misapplied and perverted with legitimate claims...with no small degree of anxious expectation. [90]

In January 1824, Hannibal Macarthur with Marsden and John Blaxland assured Bathurst that their proceedings in the Rumsby case had not been directed against the governor's authority but against Douglass because of his contemptuous treatment of themselves. They had privately informed Brisbane of their motives and he had expressed satisfaction with their conduct.[91] Hannibal Macarthur claimed that the magistrates had been willing to make concessions and implied that they would have withdrawn their resolution if Brisbane had asked

88. Currey, op.cit., p.144; Brisbane to Wilmot-Horton, 31 January 1825, Catton Papers, Derby; Brisbane to Bathurst, 7 March 1825, HRA i,X1,541; Bathurst to Brisbane, 18 July 1824, ibid., p.307; Wilmot-Horton to Douglass, 21, 25 August 1824, CO 202/12, p.278,279.
89. Declaration of J.Bradley, 27 March 1824, HRA i,X1,464.
90. H.Macarthur to King, 18 April 1823, King Papers ML A1976.
91. Marsden to Bathurst, 16 January 1824, CO 201/169, ff.366-369 (another copy in the Marsden Papers ML Am2/13 is incorrectly catalogued as 16 November 1824); H.Macarthur to Bathurst, 22 January 1824, CO 201/156, ff.237-241; J.Blaxland to Bathurst, 30 January 1824, CO 201/169, ff.439-440.

them. In dismissing the magistrates, the governor had been guilty of a breach of faith. Brisbane's integrity was further discredited by his report on the incident which was neither impartial nor consistent and included depositions to support Douglass which had not been shown to the magistrates.[92]

Brisbane denied Hannibal Macarthur's implications. He agreed that the magistrates had assured him that they were motivated not by hostility to himself but by a regard for their public characters. He acknowledged their principles and bore them no ill-will but no offer was made to concede the point at conflict. A month later he transmitted a letter from the five dismissed magistrates stating that they had never offered to withdraw their resolution against Douglass nor would they unless he accepted the authority of their bench.[93]

Hannibal Macarthur's letter used a major weakness of Brisbane's manners. The governor's well-meaning expressions were constantly, and often deliberately, misinterpreted by the colonists which created an impression that he did not keep his word.[94] In this instance, others believed that Brisbane was satisfied with the magistrates' conduct. Two weeks after the incident, John Oxley was still surprised by

92. Stephen to Wilmot-Horton, 2 September 1824, HRA iv,1,566-567; Bathurst to Brisbane, 21 September 1824, HRA i,X1,367-369; Hall to Wilmot-Horton, 14 January 1825, CO 201/167, f.116.
93. Brisbane to Bathurst, 5 April 1825, HRA i,X1,557-559; Brisbane to Bathurst, 21 May 1825, with encl., ibid., pp.595-597. When the Palmers were restored to the magistracy in late 1825, a government circular stated that no compromise of opinion had taken place on either side. Circular by Stirling, 3 November 1825, Brisbane's Letter Book ML A1559/3.
94. Brisbane to (Bruce?), 31 December 1823, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Bathurst, 10 September 1825, HRA i,X1,814; J.Macarthur to J.Macarthur jr, 19 October 1823, Macarthur Papers ML A2899; Hall to Wilmot-Horton, 14 January 1825, CO 201/167, f.116; Currey, op.cit., p.146.

the dismissal since he had understood from the governor that Douglass would be removed from Parramatta and the old magistrates would be supported.[95] Captain P.P.King received a similar impression.[96]

The complaints of Marsden and Hannibal Macarthur were supported by the personal representations of Judge Barron Field in London. A man of "violent and unforgiving temper",[97] Field quarrelled with Brisbane within two months of the new governor taking office. His close friend, Marsden, believed that Field had allowed personal feelings to influence public duty, though he felt that Field had been ill-treated.[98] Possibly the breach between Field and Brisbane was caused by Field's unsolicited advice against the appointment of John Macarthur as a magistrate. Brisbane felt bound to accept this advice though he did not agree with it.[99] A week later Field refused to sit on the inquiry into Druitt's management of the engineer's department. His place was taken by Douglass and Brisbane later accused Field of preventing an impartial investigation.[100]

Field developed a lasting personal bitterness toward Brisbane and his administration. Brisbane was a "poor wretch" whom Field sought to expose and humiliate.[101] Brisbane was infuriated by Field's prominent opposition to the dollar system and by his support for the Parramatta magistrates though

95. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, pp.30-31.
96. Wilmot-Horton to Stephen, 15 July 1824, CO 202/12, p.214; Stephen to Wilmot-Horton, 2 September 1824, HRA iv,1,566.
97. Bigge to Bathurst, 9 September 1822 in J.Ritchie, The Evidence to the Bigge Reports (2 vols., Melbourne, 1971), Vol.2. Written Evidence, p.171.
98. Marsden to Bigge, 11 February 1822, ML BT Box 27, p.6522.
99. Brisbane to Bathurst, 27 February 1822, with encl., HRA i,X,624-626.
100. Goulburn to Board of Inquiry, 19 February 1822, CSOL 4/3504A, p.462; Druitt to Bigge, 19 July 1822, ML BT Box 27, pp.6668-6670; Brisbane to Bathurst, 31 January 1825, HRA i,X1,483.
101. Field to Marsden, 28 June 1824, Marsden Papers ML A1992.

he did not retaliate against the judge as Oxley feared.[102] The governor complained to the Colonial Office that Field was "the head of a faction...who seemed guided by no moral restraints in order to achieve their ends".[103] The removal of the judges had been anticipated since Bigge's investigation and Field left in January 1824 as soon as the new appointments were known.[104] His departure provided the incentive for his friends, Marsden and Hannibal Macarthur, to send their attacks against Douglass to England.

Field had been severely criticized by Bigge and Brisbane[105] so he was surprised by his welcome at the Colonial Office. He delivered Marsden's letter of January 1824 about the dismissal of the magistrates and discussed the lawsuit that followed the Ring case, the baptism of the Factory children and the dismissal of the orphan committees with the Colonial Office and with Marsden's powerful evangelical friends such as William Wilberforce.[106] He quickly gained the interest of Edward Barnard, the colonial agent, and T.H.Scott, Bigge's secretary and archdeacon-elect for New South Wales. Field also recruitted support from two colonists, Richard Jones, who had been an ally in Marsden's earlier campaign against Macquarie,[107] and Captain P.P.King. Scott and King endorsed Field's criticisms of Brisbane's administration.[108]

102. Brisbane to Bathurst, 2, 6 September 1822, HRA i,X,730,748; Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, pp.34-35.
103. Brisbane to Bathurst, 21 January 1824, HRA i,X1,199.
104. Bathurst to Brisbane, 4 August 1823, ibid., p.102; Currey, op.cit., pp.21-22,70-71.
105. Ritchie, Bigge - Written Evidence, pp.170-171; Brisbane to Bathurst, 21 January 1824, HRA i,X1,199.
106. Field to Marsden, 28 June 1824, Marsden Papers ML A1992.
107. Ibid.; J.Ritchie, Punishment and Profit (Melbourne, 1970), p.100.
108. "Philo Umbrae", S.G., 29 September 1825. Compare A.Atkinson, op.cit., p.266 that Field's "committee" of King, Jones and Scott had no substance in fact.

Phillip Parker King was Hannibal Macarthur's brother-in-law. He had been surveying the colonial coastline and his knowledge of navigation and astronomy assured him a favourable reception at government house after Brisbane's arrival. King refused to become involved in the opposition of his friends to the dollar policy and Douglass.[109] He left the colony just after the Rumsby incident with promises of a large land grant and pardons for his convict servants.[110] Dr James Hall sailed as King's passenger and there were rumours that King was attempting to reach England before the official despatches about the dismissed magistrates. King received letters from his friends and brother-in-law that his grant had been revoked because of these rumours.[111]

The confusion was due to a claim by John McHenry of Penrith that part of King's grant had been promised to him by Macquarie. The colonial government agreed to McHenry's temporary occupation and allowed King's agent extra grazing land at Bathurst until King had been notified of the claim.[112] King protested to the colonial government that the rumours about Hall were false and that McHenry had no claim on his land.[113] When Field arrived in England in mid-1824, King had not received an answer to his letter a year earlier. He needed little encouragement to make a formal complaint to the Colonial Office and he also presented his brother-in-law's

109. "P.P.King", ADB, Vol.2; King to Brisbane, 23 August 1823, King Papers ML A1976.
110. King to Brisbane, 22 July 1822, HRA i,X1,314-315; Brisbane to King, 26 July 1822, ibid., pp.315-316; King to Brisbane, 14 July, 9 September 1822, CSIL 4/1761, f.18,165.
111. C.Macarthur to King, 20 November 1822, King Papers ML A1976; Oxley to King, 31 January 1823, ibid.; H.Macarthur to King, 18 April 1823, ibid.
112. Brisbane to Bathurst, 13 March 1825, HRA i,X1,542-543. Detailed correspondence relating to the King/McHenry dispute is in the King Papers ML A1976.
113. King to Brisbane, 23 August 1823, King Papers ML A1976.

letter about Brisbane's breach of faith with the magistrates.[114]

King's alienation from Brisbane's government was an important defection. He was a well-respected and reasonable man whose complaints could not be interpreted as malicious bickering, a perfect foil to Field. Forbes was uncertain whether King had been deceived by his friends or was himself deceiving the Colonial Office.[115] Hannibal Macarthur did not raise King's affairs with the governor[116] though Oxley hoped to prevent the land being granted to McHenry.[117] Brisbane's eventual response did not restore King's confidence since it differed completely from what his friends had told him.[118]

During August and September 1824, the London Morning Chronicle published anonymous articles criticizing the administration in New South Wales. The governor's word was not to be trusted because he was totally ruled by the colonial secretary. Private property was insecure and respectable colonists were dismissed from the magistracy and orphan school committees. The Parramatta police interrogated the inhabitants about their movements, community addresses were censored and the economy had been ruined by the dollar system. Brisbane spent his time star-gazing or shooting, oblivious to the tyranny of his government.[119] The attacks ridiculed the governor and accused Goulburn of manipulating his power.

The campaign was a clever blend of fact and half-truth. The identity of the author was never established, though

114. King to Bathurst, 22 June 1824, with encls., HRA i,X1,312-319; Field to Marsden, 28 June 1824, Marsden Papers ML A1992.
115. Forbes to Wilmot-Horton, 29 June 1825, Catton Papers, Derby.
116. H.Macarthur to King, 31 January 1823, King Papers ML A1976.
117. Oxley to King, 31 January 1823, ibid.
118. King to Hay, 29 September 1825, ibid.
119. Morning Chronicle, 6, 21, 31 August 1824; S.G., 3 February 1825; Brisbane to Bathurst, 23 May 1824, HRA i,X1,606-614.

Brisbane and others believed that Field was responsible.[120] There was a close resemblance between the anonymous article and Hannibal Macarthur's letters to King, particularly the police surveillance at Parramatta and the secretary's veto of the governor's decisions.[121] Most of the attack referred to events that directly involved either Marsden, Field or Hannibal Macarthur. Aside from these issues, the criticism focused on the governor's reply to the Presbyterian address and barely mentioned more general grievances such as the dollar system.[122]

The Presbyterian incident had arisen partly out of enmity toward Douglass. In mid-1823 Mrs Wemyss, the wife of the deputy commissary general, asked Lady Brisbane not to invite Douglass to government house because he was an improper person. Wemyss also deliberately insulted Douglass in Goulburn's presence. Wemyss and his wife were prominent Presbyterians and their new clergyman, J.D.Lang, lived with them. In early August 1823, the Presbyterian congregation asked the colonial government for help to build a kirk because Wemyss felt that it was "perfect contamination" to share a building with the Roman Catholics. Brisbane was annoyed by their bigotry but agreed to the project; however, Goulburn

120. Brisbane to Wilmot-Horton, 31 January 1825, Catton Papers, Derby; Brisbane to Bathurst, 9 February 1825, HRA i,X1,519; Australian, 3 February 1825; H.Goulburn to Wilmot-Horton, 9 November 1825, Catton Papers, Derby. Field denied the accusation. Field to Bathurst, 23 February 1826, HRA i,X11, 187. Field had been friendly with Goulburn before his departure which raises doubts whether he would have published such an attack on the colonial secretary. Wollstonecraft to Berry, 15 September 1823, Berry Papers ML UCMSS 315/13.

121. H.Macarthur to King, 31 January, 18 April 1823, King Papers ML A1976. Brisbane's quarrel with Rumker over shooting parrots was also mentioned in a letter of G.T.Boyes, a commissariat official before it was published in the Morning Chronicle. Boyes to Mrs Boyes, 12 April 1824, Letters of G.Boyes (typecript copies), ML Q991.1/B.

122. Australian, 3 February 1825.

seized the opportunity to rebuke Wemyss for his insults to Douglass and refused assistance until the Presbyterians had shown their loyalty to the government.[123]

The affair escalated because Lang did not recognize that the Presbyterians were identified with Wemyss by both the government and the public.[124] In the Morning Chronicle articles, Brisbane was accused of inviting Lang, who lived near Brisbane's home, to the colony and then insulting his congregation when they asked for assistance. It was an embarrassing incident, well-suited to illustrate Goulburn's power and Brisbane's ineptitude. A comparison was drawn between Goulburn's behaviour in the colony and his brother's position in Ireland, and Bathurst was concerned that the incident would cause sectarian problems in Britain.[125]

The information had been given to the Morning Chronicle by a Scottish naval surgeon on his return from New South Wales, possibly Dr Peter Cunningham or Dr George Fairfowl who had both sailed with Field in January 1824 or Dr James McTernan who sailed a few weeks later.[126] Brisbane complained of the interference of ships' surgeons in colonial affairs and named

123. See also Chapter 2. Lang to J.Macarthur, 19 November 1827, Macarthur Papers ML A2900; Brisbane to Bruce, 18 October 1823, Brisbane Papers ML UCMSS 329; Berry to Wollstonecraft, 21 October 1823, Berry Papers ML UCMSS 315/11; S.G., 25 September 1823.

124. Lang to (?), 10 May 1824, Lang Papers NLA MS 3267/1; Lang to (Rev.?) Macarthur, 29 January 1824, ibid.; Lang to Mudie, 30 January 1826, ibid., MS 3267/4; Lang to J.Macarthur, 19 November 1827, Macarthur Papers ML A2900; Lang, Reminiscences (Draft), Lang Papers ML A2244, pp.13-14.

125. Morning Chronicle, 6, 21 August 1824; Bathurst to Brisbane, 23 August 1824, Bathurst Papers BM Loan 57/64, pp.27-29. Brisbane had not invited Lang to the colony. Lang's brother had gone out when Brisbane was appointed and Lang had written to the colonists offering to go to New South Wales if they required a Presbyterian minister. Lang to Piper, 6 April 1821, Piper Papers ML A256; Lang, Reminiscences (Draft), Lang Papers ML A2244, pp.9-10.

126. Lang, Reminiscences (Draft), Lang Papers ML A2244, p.14; C.Bateson, The Convict Ships 1787-1868 (1959 and Sydney, 1974), p.345; S.G., 5, 26 February 1824. Possibly Lang provided them with information for the Morning Chronicle. He did not go to England himself until August 1824. Lang, Reminiscences (Draft), Lang Papers ML A2244, p.22; R.Teale, Thomas Brisbane (Melbourne, 1971), p.22.

Hall and Fairfowl, a friend of Hannibal Macarthur, as two who had provided themselves

> with board and lodging in the Colony at the cheap rate of carrying home the materials for slandering the Government, and gratifying the private feelings of certain dissatisfied Individuals in the Colony. [127]

Cunningham was also reported, though less publicly, for interfering in colonial affairs.[128]

The impact of the accusations against Brisbane's government was lessened by the arrival of Douglass in London in August 1824. Brisbane had appointed him commissioner of the court of requests and had sent him to Britain to learn more of the position.[129] He recommended Douglass to the Colonial Office as a man in his close confidence and "eminently qualified to give every insight...into the state of the Colony".[130] Undoubtedly Brisbane's concern about Field's threats to recall his government contributed to his decision to send Douglass to England only a few weeks after Field's departure.[131] Douglass contradicted Marsden's account of the Ring incident and Bathurst decided that the matter, so important to the "personal honor of both", should be investigated in the colony. The inquiry was to be conducted by the governor, the chief justice and the archdeacon.[132]

This success was countered by reports in the press that convicts had profited from Douglass's patronage, that his

127. Brisbane to Bathurst, 13 September 1825, HRA i,X1,844. One of Macarthur's sons, born in 1825, was named George Fairfowl Macarthur. "H.Macarthur", ADB, Vol.1.
128. Martin to Hay, 6 June 1826, private encl., Martin Papers BM Add.MSS 41396, ff.118-119; Martin to Hay, 21 November 1826, CO 323/146, f.308.
129. Brisbane to Bathurst, 21 February 1824, HRA i,X1,230.
130. Brisbane to Wilmot-Horton, 21 February (1824), HRA i,X,624. (Incorrectly printed as 1822).
131. Brisbane to (Bruce?), 31 December 1823, Brisbane Papers ML FM4/1626, Section 1; H.Goulburn to Wilmot-Horton, 15 August 1824, Catton Papers, Derby.
132. Bathurst to Governor of New South Wales, 2 September 1824, HRA i,X1, 351-353.

servants had obtained pardons to return to Britain and that he held many official positions. His servant Andrew White, who had testified against Hall in the Rumsby case, had been pardoned to return to Britain with Douglass. Field was aware of White's situation and the information was used to attack the colonial government's convict policy.[133]

In November 1824 further accusations were made against Douglass. A charge of habitual drunkenness was supported by a deposition from Joseph Bradley, a former clerk to the Parramatta magistrates, who also alleged that Douglass had altered the magisterial records of punishments and fines. King delivered this information to the Colonial Office but it had been initiated by Marsden and Hannibal Macarthur.[134] In private letters, Marsden also accused Douglass of ordering a convict to be flogged daily until he confessed to a crime. Field and King ensured that these allegations were widely discussed among Marsden's patrons.[135] In January 1825, Bathurst ordered a colonial investigation of these charges.[136] King and Field also publicized a complaint by Sir John Jamison about the prostitution of women convicts at Emu Plains which they hoped would further embarass Douglass[137] but the recall of Brisbane and Goulburn in November 1824 reduced the urgency

133. See also Chapter 3. Field to Marsden, 31 August 1824, Marsden Papers ML A1992; White's deposition in Brisbane to Bathurst, 6 September 1822, HRA i,X,775-776; Extract from the Morning Chronicle, 8 October 1824, CO 201/169, f.82; Douglass to Wilmot-Horton, 17 September 1824, CO 201/155, f.398; Wilmot-Horton to Douglass, 5 November 1824, CO 202/13, pp.22-23; Douglass to Wilmot-Horton, 9 November 1824, CO 201/169, ff.78-80.
134. Bradley's deposition, 27 March 1824, HRA i,X1,463-465; King to Wilmot-Horton, 27 November 1824, CO 201/156, f.111; Stephen to Hay, 14 July 1826, CO 201/175, ff.317-318.
135. Field to Marsden, 16 December 1824, Field Papers ML Af23/1; Yarwood, op.cit., pp.246-247.
136. Bathurst to Governor of New South Wales, 3 January 1825, HRA i,X1,462-463.
137. See below. Field to Marsden, 21 November 1824, Marsden Papers ML A1992.

of these attacks.

The inquiry into the charges against Douglass was held in July and August 1825. The Colonial Office considered that its members were as impartial as possible[138] but Brisbane was committed to Douglass even though he took little part in the inquiry to avoid accusations of prejudice.[139] Archdeacon Scott had been briefed by Field and was so convinced of Douglass's guilt that the Colonial Office later wondered if it should have excluded him.[140] Only Forbes attempted to be impartial and he favoured Douglass.[141]

The outcome was prejudiced by the Colonial Office. To compensate Douglass for the position of commissioner of the court of requests which had been given to a Crown appointee, Douglass was to be appointed clerk of the legislative council if he was cleared of the charges.[142] Scott objected that this would influence the inquiry.[143] Brisbane considered that the appointment indicated Bathurst's approval of the dismissal of the magistrates and he refused to reinvestigate this case with the other charges against Douglass.[144]

The James Ring inquiry, based on Marsden's letter to Peel, found that despite irregularities, the conduct of Douglass and the other magistrates had been proper.[145]

138. Stephen to Twiss, 18 April 1829, CO 201/204, f.285.
139. Currey, op.cit., p.145.
140. Scott to Wilmot-Horton, 30 September 1824, CO 201/169, f.52; Brisbane to Bruce, - September 1825, Brisbane Papers ML UCMSS 329; Douglass to Wilmot-Horton, 5 November 1825, CO 201/169, f.107; Scott to Norman, 18 February 1829, Norman Papers, Kent Archives Office, Maidstone U310 C36; Stephen to Twiss, 18 April 1829, CO 201/204, f.285.
141. Forbes to Wilmot-Horton, 30 October 1825, HRA i,X1,956.
142. CO Minute, n.d.(1824?), CO 201/155, f.412; Bathurst to Governor of New South Wales, HRA i,X1,462-463; Brisbane to Bathurst, 26 June 1825, ibid., pp.677-678.
143. Scott to Wilmot-Horton, 2 January 1825, Catton Papers, Derby.
144. Marsden, H.Macarthur, J.Blaxland, J. and G.Palmer to Brisbane, 8 July 1825, Copies of Letters Received by the Governor 1822-1825, AONSW 4/1618, p.98; Brisbane to Marsden, 15 July 1825, CO 201/179, f.197 ff.
145. Brisbane, Forbes and Scott to Bathurst, 10 August 1825, HRA i,X1,717-781.

Although the colonial regulations on the employment of convict servants were contradictory, their application to Marsden's case was a reasonable interpretation and Marsden had recently applied them in a similar case.[146] Forbes considered that in view of Marsden's criticism of leniency in the convict system under Macquarie, his lax supervision of his convict servants was inexcusable.[147] The Colonial Office concluded that Marsden's letter had been "unfair and disingenuous" and had deliberately omitted his earlier quarrel with Douglass. Bathurst had been offended that Brisbane had allowed Marsden to complain to the Home Office rather than to the Colonial Office but he now recognized this as a clandestine approach.[148]

The second part of the inquiry investigated Bradley's charges of drunkenness and Marsden's allegation of torture. Although Marsden and Hannibal Macarthur had searched for evidence against Douglass, they found no-one more creditable than Bradley who had a grudge against him. In a community where perjury and gossip thrived, the lack of witnesses against Douglass was striking and testimony from the governor, officials and settlers refuted the charges, as did Bradley's own witnesses.[149]

Bathurst had referred the inquiry to Marsden for details

146. Brisbane, Forbes and Scott to Bathurst, 10 August 1825, HRA i,X1,722-723; Brisbane to Wilmot-Horton, 31 January 1825, Catton Papers, Derby; Stephen to Hay, 15 July 1826, CO 201/175, ff.360-361, though see f.363 where Stephen stated that it was a deviation from the norm to enforce the regulation.
147. Forbes to Wilmot-Horton, 30 October 1825, HRA i,X1,951.
148. Stephen to Hay, 15 July 1826, CO 201/175, ff.342-381; Bathurst, Minute, n.d., CO 324/75, f.3; Bathurst to Brisbane, 18 July 1824, HRA i,X1,307.
149. Brisbane, Forbes and Scott to Bathurst, 11 August 1825, HRA i,X1,782-796; Stephen to Hay, 14 July 1826, CO 201/175, ff.317-326; Duguid to Wilmot-Horton, 21 December 1824, CO 201/155, f.372. William Bragge, Ann Rumsby's husband, was one of the witnesses for Douglass.

of his charge that Douglass had flogged a convict to obtain his confession. Marsden denied making such a charge but admitted mentioning the case of Henry Bayne in letters to England. Marsden wanted the case investigated as part of the charges of the dismissed magistrates against Douglass.[150] The court of inquiry demanded that Marsden produce the statement that he sent to England and be prepared to prove that the flogging was not a punishment from a magisterial court. Marsden would not agree so the record of Bayne's sentence and similar cases of staggered punishments to recover stolen property were annexed to the report of the inquiry for Bathurst to judge their relevance to charges against Douglass.[151] Brisbane reported that the inquiry had been "unequivocably favourable" to Douglass and confirmed his appointment as clerk to the legislative council.[152] The Colonial Office accepted this conclusion.[153]

Although Scott had signed the report, he believed that the Bayne case should have been investigated. He objected to Douglass's appointment and threatened to resign rather than associate with a man guilty of torture.[154] Bayne's case was revived immediately by the Parramatta grand jury in its presentment to the court of quarter sessions on 15 August 1825. The foreman of the jury was Hannibal Macarthur and the other jurors included dismissed magistrate John Blaxland, George

150. Marsden to Brisbane, 15, 16 July 1825, HRA i,X1,798-799. This was a strange request since Bayne's case did not occur until March 1823, eight months after the magistrates' dismissal.
151. Brisbane, Forbes and Scott to Bathurst, 11 August 1825, ibid., pp.782-783, 796-807. For a narrative account see Currey, op.cit., pp.149-164.
152. Brisbane to Bathurst, 16 August 1825, HRA i,X1,807.
153. Hay to Darling, 1 August 1826, HRA i,X11,463.
154. Brisbane to Bathurst, 28 September 1825, HRA i,X1,849-854; Brisbane to Bruce, - September 1825, Brisbane Papers ML UCMSS 329.

Druitt, an enemy of Douglass, Robert Lethbridge and Allan Cunningham, intimate friends of Hannibal Macarthur.[155] The presentment was a result of the dissatisfaction of Douglass's opponents with the findings of the court of inquiry and was given to the Sydney Gazette for publication by Hannibal Macarthur.[156]

With the Bayne case a matter of heated public debate, Brisbane referred it to the legislative council on 30 August 1825.[157] Its investigation showed that staggered punishments and floggings to restore stolen property had been common practice since the beginning of the settlement. Not only had Douglass and other junior magistrates used these punishments but they had based their conduct on the example of Marsden and Hannibal Macarthur. Sixteen current magistrates had used similar punishments which had been abolished by the 1823 Act. In view of the widespread practice, Forbes suggested an act of indemnity to stay proceedings against all magistrates for one year.[158]

Hannibal Macarthur objected to the legislation, claiming that the magistrates should be allowed to clear their reputations. He and his friends believed that the indemnity was designed to protect Douglass from further prosecution but

155. Report of the Parramatta Grand Jury, 15 August 1825, HRA i,X1,858-862; Druitt to Bathurst, 10 December 1822, CO 201/111, f.216; Cunningham to King, 18 February 1824, King Papers ML A3599; Lethbridge was related to King's wife. "P.P.King", ADB, Vol.2.
156. Brisbane to Bathurst, 28 September 1825, HRA i,X1,852; Forbes to Wilmot-Horton, 30 October 1825, ibid., pp.952-954; S.G., 25 August 1825; Wentworth to Bannister, 7 September 1825, Wentworth's Legal Letter Book ML A1440.
157. Brisbane to Arthur, 1 September 1825, Arthur Papers ML A2166; New South Wales Legislative Council, Minutes of Proceedings 1824-1825 (Sydney, 1847), p.21.
158. Brisbane to Bathurst, 28 September 1825, with encls., HRA i,X1,852-858; Forbes to Wilmot-Horton, 30 October 1825, ibid., pp.952-954; S.G., 22, 29 September, 13 October 1825; Australian, 15, 22 September 1825; New South Wales Legislative Council, op.cit., 27 September 1825, p.23.

Forbes argued that it applied only to public prosecutions and did not affect private actions.[159] The legislation caused serious division within the administration, and the attorney-general, who supported Hannibal Macarthur and Archdeacon Scott, refused to draft the bill.[160] The act was passed by the council on 11 October 1825.[161]

Marsden, Hannibal Macarthur, Field, King and later Scott were the most sustained critics of Brisbane's administration. Another settler who wanted to discredit the colonial government was Sir John Jamison. A cultured and scientific man, Jamison shared many interests with the new governor and Brisbane's response was friendly.[162] When the dollar policy was introduced, Jamison protested against it and the new land policy.[163] From mid-July 1822, Jamison's relations with the colonial government quickly turned sour.

Jamison had been appointed a magistrate in 1819 and he took his duties seriously. In March 1822 he was deeply concerned by a ruling against the jurisdiction of colonial magistrates in wage disputes[164] and he queried the inconsistencies of magisterial authority in a letter to Brisbane in May 1822.[165] In late July 1822, Jamison complained that three senior officials, Goulburn, Ovens and Murdock, had

159. Scott to Wilmot-Horton, 27 September 1825, CO 201/168, f.177; Forbes to Wilmot-Horton, 30 October 1825, HRA i,X1,955; C.Macarthur to King, 22 August 1826, King Papers ML A1976; S.G., 3, 6 October 1825.
160. Brisbane to Bathurst, 11 October 1825, with encls., HRA i,X1,881-887.
161. New South Wales Legislative Council, Minutes of Meeting, 5, 11 October 1825, ML A3980; S.G., 13 October 1825.
162. Jamison to Bathurst, 2 September 1822, CO 201/111, ff.365-366; Brisbane to (?), 31 July 1825, Brisbane Papers ML FM4/1626, Section 1; B.Fletcher, "Sir John Jamison in New South Wales 1814-1844", JRAHS, 65 (1979), pp.1-29.
163. Minutes of a conversation between Jamsion and Brisbane, 20 July 1822, CSIL 4/1761, f.78.
164. Brisbane to Bathurst, 2 May 1822, encl., HRA i,X,636-638.
165. Jamison to Brisbane, 15 May 1822, Magistrates and Legal Matters 1792-1830, CS-SB 3821.7.

shown contempt for the jurisdiction of the Penrith bench of magistrates over the assignment of a convict. Jamison felt that he was unable to continue public duties if the governor had authorized their conduct.[166] Goulburn accepted this indignant note as Jamison's resignation from the magistracy.[167]

On the day that Goulburn accepted Jamison's resignation, Jamison and Dr Hall visited the home of Dr Douglass where Hall had his eventful meeting with Ann Rumsby. Since Jamison had a medical background and was well-known for his hospitality to visitors to the colony, it was not unusual to find Hall in his company. The colonial government never questioned Jamison about that day though his evidence could have clarified the inconsistencies in the accounts of Hall's meeting with Ann.[168] Nor did Jamison explain the circuitous route of Hall's first letter to Ann which was sent from Sydney to Jamison at Penrith and Marsden at Parramatta before being delivered to Ann.[169]

In mid-July 1822, Jamison was elected first president of the New South Wales Agricultural Society.[170] A few weeks later, the society sent a memorial to Bathurst for a reduction of wool duties. It was accompanied by an address prepared by Jamison which praised Brisbane's interest in colonial agriculture. Jamison sent these documents to the colonial government with a personal letter which denied that he had spread details of a conversation which questioned the governor's veracity.[171] This probably referred to a quarrel

166. Jamison to Goulburn, 29 July 1822, Copies of Letters Sent and Received in the Colony 1821-1824, CS 4/5783, p.109. Another copy enclosed with Jamison to Bathurst, 2 September 1822, CO 201/111, f.369.
167. Goulburn to Jamison, 31 July 1822, CO 201/111, f.369; S.G., 2 August 1822.
168. "J.Jamison", ADB, Vol.1; Bathurst, Minute, n.d., CO 324/75, ff.7-8.
169. Stephen to Wilmot-Horton, 2 September 1824, HRA iv,1,558-559.
170. S.G., 12 July 1822.
171. Yarwood, op.cit., p.235; President of the Agricultural Society to Brisbane, - July 1822, Miscellaneous Loose Papers 1802-1844, AONSW 5/3822.6; Jamison to (Brisbane?), - July 1822, Abstract, Supplementary Memorials 1822, CSIL Memorials re:Land 4/1828.

between Jamison and the principal surgeon, James Bowman, about the dollar system. Each accused the other of undermining his relations with the governor.[172]

The colonial secretary returned the documents to the Agricultural Society in early August, objecting on the unusual grounds that the address was too praiseworthy.[173] On 20 August 1822, the committee of the society dissociated it from Jamison's personal letter and resubmitted the memorial, this time successfully.[174] Even those, like Oxley, who agreed with Jamison's opposition to the dollar system believed that he had been most imprudent in his correspondence.[175] The dissociation of the society from its president's political views was a matter of form only. Of the eighteen members at the meeting, all but six signed the memorial against the dollar system which was presented the following day.[176]

The Sydney Gazette of 30 August 1822 announced Jamison's resignation as president of the Agricultural Society and the election of Judge Field, with Hannibal Macarthur and Samuel Marsden as vice-presidents. The election of two dismissed magistrates and a leading opponent to the dollar system to the vacancies in the Agricultural Society in the midst of the Parramatta and dollar controversies was a gesture of support for those who opposed the colonial government. The same issue published a new list of magistrates, omitting the names of the

172. Minutes of a conversation between Jamison and Brisbane, 20 July 1822, CSIL 4/1761, f.78; Bowman to Jamison, 21 August 1822, Bowman's Medical Letter Book 1819-1824, Macarthur Collection ML A4246.
173. Resolution of a special meeting of the Agricultural Society Committee, 20 August 1822, CSIL 4/1753, f.174; Jamison to Bathurst, 2 September 1822, CO 201/111, f.365.
174. Resolution of a special meeting of the Agricultural Society Committee, 20 August 1822, CSIL 4/1753, f.174. Brisbane sent the wool memorial in early September. Brisbane to Bathurst, 7 September 1822, HRA i,X,782-783.
175. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.34; R.Howe, Diary, 20 August 1822, ML B846/1.
176. Resolution of a special meeting of the Agricultural Society Committee, 20 August 1822, CSIL 4/1753, f.174; Memorial (21 August 1822?), HRA i,X,741-744.

five Parramatta magistrates and Jamison as well as Brisbane's reply to the dollar petition.[177]

These events were a monumental defeat for Jamison. For years he had stressed that wealthy men such as himself should participate in public affairs[178] but within a month he had lost the tangible signs of a decade of effort. He was no longer a magistrate nor president of the most distinguished group of his fellow colonists. He blamed Goulburn for manoeuvring his resignations and believed that he had aroused Goulburn's hostility by criticizing government policies. Jamison was convinced that Goulburn wanted to isolate the governor from the informal influence of respectable settlers. His removal from the bench was a measure to "intimidate all others from even offering private advice...to those in power".[179]

> This is not a colony to be governed by anyone abstracted in constant solar, lunar and astronomical calculations, leaving the administration of government to men without any other abilities than military despotism and studied persecution of those who speak of the dangerous influence they are under. [180]

In this state of mind, Jamison was not "very incredulous" of stories which discredited the colonial government. He believed that Brisbane's subordinates were "not overscrupulous of what they did" and accepted that there were foundations for such reports.[181]

In mid- September 1822, Dr James Hall wrote to Jamison

177. S.G., 30 August 1822; Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.34; Brisbane to (Bruce?), 31 December 1823, Brisbane Papers ML FM4/1626, Section 1.
178. Jamison to Goulburn, 16 July 1819, CO 201/95, f.576; A.Hewison, The Macquarie Decade (Melbourne, 1972), p.100.
179. Jamison to Wilmot-Horton, 29 June 1824, CO 201/156, f.71.
180. Jamison to Bathurst, 2 September 1822, CO 201/111, f.365.
181. Jamison to Bathurst, 10 May 1827, CO 201/188, ff.318-319.

that he believed that women convicts were stationed at Emu Plains as prostitutes for the male prisoners. Such behaviour undermined efforts in England to reform the convicts and Hall asked Jamison to provide further information for a complaint to the British government.[182] Jamison replied that he had reported the prostitution of the women to Goulburn and Brisbane but neither had been interested in the women's plight. Several of the men and women were diseased, some of the women were pregnant and had complained of the violence with which they were treated.[183]

Jamison later claimed that these allegations were not a charge against the colonial government but merely his private comments.[184] Nevertheless, his letter was written in reply to a specific request for information to be used in a charge against the colonial administration by a man who had recently been the catalyst in a major controversy which had also alleged the abuse of women convicts under Brisbane's administration. Hall took Jamison's letter to England in late 1822.

Meanwhile, Jamison had retired to his country estate where he built a magnificent mansion at Regentville and entertained on a grand scale.[185] Brisbane suspected that Jamison might attack his government but was incensed when Jamison accused him of dealing privately in stock.[186] After

182. Hall to Jamison, 15 September 1822, CO 201/169, f.91. See also Chapter 3.
183. Jamison to Hall, 20 September 1822, ibid., f.93. Another copy in Brisbane Papers ML UCMSS 329.
184. Jamison to Bathurst, 10 May 1827, CO 201/188, f.317.
185. S.G., 16 August 1822, 11 September 1823; Boyes to Mrs Boyes, 6 May 1824, Letters of G.T.Boyes (typescript copies), ML Q991.1/B; W.Horton, Journal, 5 June 1824, ML BT Box 52, pp.1358-1359.
186. Brisbane to Craufurd, 14 September 1822, Brisbane Papers PRO PMG1/1; Brisbane to (?), 15 February 1823, Brisbane Papers ML FM4/1626, Section 1. Jamison may have had reason for his suspicions. He lent Brisbane £1,000 for three years in November 1822. Bond between Brisbane, Crawford and Jamison 2 November 1822, Brisbane Papers GA Ardgowan 294.

Brisbane's quarrel with Goulburn in 1824, relations between Jamison and the governor improved and Brisbane recommended Jamison as a member of the legislative council.[187] Jamison accepted Brisbane's assurances that Goulburn had been responsible for their alienation, though Jamison also mistrusted the influence of Bowman. With Brisbane's approval, Jamison returned to public life and became president of the Agricultural Society again. He informed the Colonial Office of their reconciliation and hoped that his earlier criticisms would be overlooked.[188] At the end of June 1825, Jamison held a dinner for the governor but within a few days their relationship was shattered when details of the Emu Plains scandal reached the colony.[189]

The Emu Plains allegations had been mentioned in the Morning Chronicle in early October 1824 but were formally brought to the attention of the Colonial Office in an affidavit by Captain P.P.King in November 1824. King had brought Hall back to England in 1822 and claimed that he had seen documents in Jamison's handwriting describing prostitution at Emu Plains. King had also heard of it while in New South Wales and believed that Douglass had selected the women.[190] King had mentioned it to the colonial agent, Edward Barnard,

187. Brisbane to Bathurst, 1 November 1824, HRA i,X1,406.
188. Jamison to Wilmot-Horton, 29 June 1824, CO 201/156, f.71; Jamison to Wilmot-Horton, 7 February 1825, CO 201/167, f.154; S.G., 3 February 1825.
189. S.G., 30 June 1825; Brisbane to Bruce, 4 July 1825, Brisbane Papers ML UCMSS 329; Ovens to Brisbane, 16 July 1825, Copies of Letters Received by the Governor, AONSW 4/1618, p.139.
190. Extract from the Morning Chronicle, 8 October 1824, CO 201/169, f.82; King to Wilmot-Horton, 27 November 1824, CO 201/156, ff.111-113. Field mentioned but did not draw attention to the women at Emu Plains in his journal for 1822. B.Field, "Journal of an Excursion Across the Blue Mountains, October 1822", in G.Mackaness (ed.), Fourteen Journeys Over the Blue Mountains of New South Wales 1813-1841 (3 vols., Dubbo, 1978), Vol.2, p.34.

when he arrived in England in May 1823[191] but Hall apparently did not present Jamison's letter. The British government was displeased with Hall's involvement in the Ann Rumsby incident so it was not a propitious time to submit further allegations.[192]

Though Hall claimed that Brisbane welcomed him on his return in mid-1824,[193] the governor objected strongly to Hall's plans to settle in New South Wales. Brisbane reminded Bathurst of Hall's role in the Rumsby affair and added that Hall had challenged Goulburn to a duel.[194] Brisbane and Goulburn suspected that Hall was collecting information about women convicts to attack their administration though Hall denied it.[195] In London, Field and King were confident that Hall would return with further affidavits and corroborative evidence from Jamison.[196] Hall reached London in January 1825 and submitted his information to the Colonial Office.[197] Douglass rejected Jamison's claims and demanded a colonial investigation.[198]

Brisbane was deeply offended by the accusations and ordered an immediate inquiry to clear his reputation.[199] As

191. King's affidavit, 22 November 1824, CO 201/156, f.113.
192. Wilmot-Horton to Hall, 31 May 1823, CO 202/11, p.98; Wilmot-Horton to Martin, 26 June 1823, ibid., p.121; Wilmot-Horton to Hall, 16 August 1823, ibid., p.164.
193. Hall to Wilmot-Horton, 14 January 1825, CO 201/167, f.116.
194. Brisbane to Bathurst, 24 June 1824, HRA i,X1,283-284. The Colonial Office had only approved Hall's reappointment to a convict ship if it was bound for Van Diemen's Land but Hall was attacked by the women convicts on board the Brothers. He prosecuted the mate for conspiracy in the assault and it was investigated in Sydney. Brisbane to Bathurst, 24 June 1824, encl., ibid., pp.284-301; Wilmot-Horton to the Commissioners of the Navy, 30 August 1823, CO 202/11, p.203.
195. Fennell's deposition, 26 September 1824, Copies of Letters Received by the Governor 1822-1825, AONSW 4/1618, p.244; Hall to Brisbane, 2 August 1824, ibid., p.139.
196. Field to Marsden, 21 November 1824, Marsden Papers ML A1992; King to Wilmot-Horton, 27 November 1824, CO 201/156, ff.111-113.
197. Hall to Wilmot-Horton, 5 January 1825, CO 201/167, f.112.
198. Field to Marsden, 16 December 1824, Field Papers ML Af23/2; Douglass to Wilmot-Horton, 31 January 1825, CO 201/169, f.89.
199. Brisbane to (?), 31 July 1825, Brisbane Papers ML FM4/1626, Section 1; Murdock to Arthur, - November 1825, Murdock Papers, Royal Commonwealth Society, London.

it was a private investigation for the governor's personal satisfaction, the accusers were not named.[200] The Colonial Office assumed that the colonial government did not know who had initiated the allegations[201] but Douglass had returned with copies of Jamison's letter to Hall[202] and by August 1825 it was general knowledge that the charges had been made by a "certain Knight".[203] Two of the witnesses, John Street and Dr Mitchell, had been named in Jamison's letter and at the inquiry they emphatically denied any knowledge of the charges.[204] Jamison complained that he was never questioned[205] and he should have been a witness, regardless of his personal involvement because he lived within sight of the prison farm and had been the local magistrate.[206]

The inquiry concluded that the allegations had been secretly transmitted to England for the purpose of

> exciting an unfavourable impression against the Public Officers employed in the administration of the affairs of this Colony. [207]

Its failure to identify the accuser suggested that the colonial government was not prepared to prosecute Jamison,[208] but one of Brisbane's final acts was to remove Jamison's name from the list of legislative councillors.[209] Despite the weaknesses of the inquiry,[210] the Colonial Office was convinced

200. Australian, 15 September 1825.
201. Stephen to Hay, 9 September 1826, CO 201/175, f.389. This was probably because the colonial inquiry did not name anyone. Report of the Inquiry, 7 September 1825, HRA i,X1,817-818.
202. Brisbane to Bruce, 4 July 1825, Brisbane Papers ML UCMSS 329; Brisbane to (?), 31 July 1825, Brisbane Papers ML FM4/1626, Section 1.
203. Australian, 4 August 1825.
204. Evidence of Street and Mitchell, Proceedings of the Inquiry, 7 September 1825, HRA i,X1,825,827-828.
205. Jamison to Bathurst, 10 May 1827, CO 201/188, f.317.
206. Stephen to Hay, 9 September 1826, CO 201/175, f.390.
207. Stewart, Stephen and Cowper to Brisbane, 7 September 1825, HRA i,X1,817.
208. Ibid., pp.814-818.
209. Brisbane to Bathurst, 18 November 1825, ibid., p.903.
210. See Chapter 3.

that Jamison's allegations were a total fabrication and he was declared persona non grata.[211] Hall's part was attributed to hostility to Goulburn and Douglass arising from their earlier clash over Ann Rumsby.[212]

Although Jamison did not make the allegations personally, he must have been aware when Hall returned to the colony in mid-1824 that Hall would use them. This may explain Jamison's anxious request in February 1825 after his reconciliation with Brisbane that the Colonial Office disregard his earlier criticisms.[213] The timing and impact of the Emu Plains scandal were decided by King and Field in London. They changed the focus of Jamison's attack from Goulburn to implicate Douglass also. When Jamison realized the damage to his reputation, he produced testimony to the brutal treatment of the women by the overseers and convicts at Emu Plains. These affidavits did not involve either Brisbane, Goulburn or Douglass but implicated Brisbane's protégé, Peter Murdock, the superintendent.[214]

Unlike Marsden, Hannibal Macarthur, Field or Jamison, John Macarthur's complaints to the Colonial Office were not misrepresentations or scandals. Macarthur's son Edward had served under Brisbane and the new governor had met his other sons William and John junior before leaving England. Brisbane's aide and brigade-major were friends of various members of the

211. Bathurst to Darling, 10 September 1826, HRA i,XII,561-563.
212. Stephen to Hay, 9 September 1826, CO 201/175, f.393.
213. Jamison to Wilmot-Horton, 7 February 1825, CO 201/167, f.154.
214. Jamison to Bathurst, 10 May 1827, CO 201/188, ff.317-353. These enclosures are also with Darling to Bathurst, 12 May 1827, CO 201/182, ff.309-333; Jamison to Murray, 3 April 1830, CO 201/215, ff.352-353.

Macarthur family and with such favourable introductions Macarthur soon offered the new governor his suggestions on convict management and wool development. Brisbane responded by inviting Macarthur to become a magistrate.[215]

This harmonious beginning was shattered by the revival of accusations against Macarthur for his part in the Rum Rebellion in 1808. Brisbane's gesture of reconciliation between the colonial government and the former rebel stirred the embers of old jealousies. Marsden, Macarthur's bitter opponent for nearly three decades, was determined not to share the bench with Macarthur.[216] His friend, Judge Field, was probably aware of this attitude and Field and Judge Wylde wrote to Brisbane advising against Macarthur's appointment because of his part in the rebellion and his poor relations with the other magistrates.[217] This was an embarrassing incident for the new governor who, unable to conciliate the "great party spirit" that divided the leading officials and settlers, withdrew his offer to Macarthur.[218] Macarthur was offended and believed that Wylde had been prompted by Goulburn and Douglass who did not want Macarthur to gain influence with the governor.[219]

Although Macarthur was antagonistic toward Douglass, he

215. J.Macarthur jr to James Macarthur, 30 April 1821, Macarthur Papers ML A2911; J.Macarthur jr to E.Macarthur, 30 May 1821, ibid.; J.Macarthur, Suggestions on Convict Employment, (December 1821?), in Onslow, op.cit., pp.357-358; J.Macarthur, Suggestions on Wool, 19 December 1821, ibid., pp.349-355; Goulburn to J.Macarthur, 31 January 1822, ibid., p.360.
216. Marsden to Bigge, 29 January 1822, ML BT Box 27, pp.6689-6690; Yarwood, op.cit., p.45,52-53.
217. Wylde and Field to Brisbane, 19 January 1822, HRA i,X,625-626.
218. Goulburn to J.Macarthur, 31 January 1822 in Onslow, op.cit., p.360.
219. J.Macarthur, Minute, n.d., ibid., p.359; J.Macarthur to Goulburn, n.d. (February 1822?), ibid., p.361; James Macarthur to J.Macarthur, 14 February 1824, Macarthur Papers ML A2962.

was not involved in the Rumsby incident.[220] Oxley wondered if Macarthur had plotted the dismissal of the Parramatta magistrates in revenge for his exclusion but this was unlikely retaliation against his other opponent, Douglass.[221] Macarthur believed that Douglass was profligate, unprincipled and overwhelmed with debt and he resented his influence as Goulburn's parasite.[222] Although aware of the intrigues against Douglass, he condemned them as "absurdities"[223] and it was only when he realized that the bitterness of his nephew and Marsden might interfere with his own ambitions that Macarthur took action. Hannibal Macarthur and Marsden blamed the colonial agent, Edward Barnard, for encouraging Bathurst not to reinstate them. They planned to protest against Barnard's appointment but, since John Macarthur considered Barnard as his nominee, he arranged a counter display of support for Barnard.[224]

Macarthur's relations with Brisbane cooled following the judges' letter [225] but despite differences Macarthur and his sons maintained a rapport with the governor's family and personal staff.[226] Macarthur was critical of Brisbane's weakness and indecision.[227] Brisbane regarded Macarthur as "completely the gentleman" but was wary of his temper.[228]

220. See Currey, op.cit., p.56,64 and A.Atkinson, op.cit., pp.196-197 for a contrary view.
221. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, pp.32-33.
222. J.Macarthur to J.Macarthur jr, 29 January 1823, Macarthur Papers ML A2962; J.Macarthur to J.Macarthur jr, 19 October 1823, ibid., ML A2899.
223. J.Macarthur to J.Macarthur jr, 24 January 1824, ibid., ML A2899.
224. Ibid.
225. J.Macarthur, Minute, n.d., in Onslow, op.cit., p.359.
226. e.g. James Macarthur to J.Macarthur, 17 February 1824, Macarthur Papers ML A2962.
227. J.Macarthur to J.Macarthur jr, 19 October 1823, ibid., ML A2899; James Macarthur to J.Macarthur, 12 February 1824, ibid., ML A2962.
228. Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329.

He knew that Macarthur was ambitious[229] yet respected his achievements. To many, Brisbane seemed torn between two strong but antagonistic influences, Goulburn in Sydney and Macarthur at Parramatta.[230]

John Macarthur's energies during Brisbane's adminstration were concentrated on acquiring the Cow Pastures. Macarthur had insisted on locating his original 1805 grant for 5,000 acres in this restricted area and as his flocks increased he was determined to extend his holdings in the Cow Pastures.[231] In London, John Macarthur junior assured the Colonial Office that Lord Camden had promised his father an additional 5,000 acres if his enterprise was successful. The Colonial Office waited until Bigge reported that Macarthur's efforts to breed fine wool sheep had succeeded then ordered Brisbane to grant a further 5,000 acres as close as possible to the original grant.[232]

When Bathurst's despatch arrived in late November 1822, Macarthur requested the land west of his Cow Pastures grant. Bounded on the north by the Nepean River and on the west by Mt Hunter Rivulet, the area was known as Cawdor and included government stock yards. The colonial government suggested that Macarthur take his grant further south but he refused because the land was too mountainous. Negotiations were deadlocked in February 1823 and Macarthur wrote to his son to

229. Brisbane to Wilmot-Horton, 31 January 1825, Catton Papers, Derby.
230. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.32; H.Goulburn to Wilmot-Horton, 15 August 1824, Catton Papers, Derby.
231. Bigge, Agriculture and Trade, p.5; M.H.Ellis, John Macarthur (1955 and Penrith, 1972), pp.80-81,234-235,243-244,248-251,267-269,314.
232. J.Macarthur jr to Bathurst, 8 October 1821, Macarthur Papers ML A2962; Wilmot-Horton to J.Macarthur jr, 12 July 1822, ibid.; Bathurst to Brisbane, 10 July 1822, HRA i,X,655.

appeal to the Colonial Office.[233]

Macarthur was infuriated by the colonial government's failure to comply immediately with his wishes. He wrote of its "secret hostility" to him and his anger at Goulburn, whom he blamed for the delay, became increasingly violent throughout 1823.[234] The colonial secretary's call for seven year leases of the land Macarthur wanted appeared deliberately provocative. Macarthur negotiated to secure the leases without prejudice to his grant from September 1823 until early 1824 when a despatch from Bathurst ordered that Macarthur receive the land at Cawdor with an option to purchase any surplus after his grant had been measured.[235]

Brisbane objected to locating Macarthur's grant in the Cow Pastures because Macarthur's sons had received grants of 2,300 acres there while Macarthur himself had acquired 4,568 acres for rams sold to the government, despite stipulations that the land was not to adjoin his old grant. He had also exchanged purchased land for land in the Cow Pastures. In all, the Macarthur family had received 15,498 acres in the Cow Pastures in recent years. Brisbane objected to surrendering a further 10,700 acres which included a church and school reserve and the government tanpits which were part of Brisbane's project for self-sufficiency.[236] These objections

233. Various correspondence November 1822 to February 1823, Macarthur Papers ML A2962.
234. J.Macarthur to J.Macarthur jr, 12 February, 22 August 1823, Macarthur Papers ML A2899; J.Macarthur, Notes re:Land, 29 January 1823, ibid.,ML A2962.
235. S.G., 25 September 1823. The colonial government had considered leasing the unused government land in Camden as early as February 1823. Goulburn to Blaxland, 12 February 1823, CSOL 4/3507, p.332. Various correspondence October 1823 to January 1824, Macarthur Papers ML A2962; Bathurst to Brisbane, 31 July 1823, HRA i,X1,92-93.
236. Brisbane to Bathurst, 29 November 1823, HRA i,X1,182-183. Macarthur's land at Camden was 5,000 acres by grant, 4,368 acres for the rams, 3,630 acres by exchange, a total of 12,998 acres to which he wanted to add 5,000 acres grant and 5,400 acres purchase at Cawdor. Return of Lands held by J.Macarthur, Darling to Bathurst, 4 January 1827, encl., HRA i,X111,13; Brisbane to Bruce, 30 January 1824, Brisbane Papers ML UCMSS 329.

had little impact against Bigge's recommendation that government land at the Cow Pastures should be distributed to the settlers.[237]

When the colonial government did not immediately obey Bathurst's despatch of July 1823, James Macarthur, believing that "a little manoeuvring would be excusable", emphasized to Brisbane his family's influence at the Colonial Office.[238] This pressure, described by Jamison as Macarthur's "diabolical and self-designing intrigues",[239] precipitated Brisbane's quarrel with Goulburn in April 1823.[240] Jamison and Field considered that Macarthur had isolated the governor from the colonial secretary to ensure his influence over Brisbane.[241] The grant at Cawdor was finalized in May 1824 but the location of the church and school reserve remained a point of contention between Macarthur, Brisbane and Archdeacon Scott who had been appointed by Bathurst to decide on the reserve.[242]

Macarthur's anger with the colonial government was increased by its proceedings in his legal appeal against William Campbell. Goulburn, acting on the advice of Field, had allowed Campbell to appeal to England without informing Macarthur who was furious when he learnt of it by accident in

237. Bigge, Agriculture and Trade, p.97; CO Minute for Douglass, 2 January (1825?), CO 201/155, f.424.
238. James Macarthur to J.Macarthur, 14, 17 February 1824, Macarthur Papers ML A2962.
239. Jamison to Wilmot-Horton, 29 June 1824, CO 201/156, ff.71-75.
240. See Chapter 2. Brisbane to Bathurst, 1 May 1824, HRA i,X1,254; Brisbane to Wilmot-Horton, 13 May 1824, Catton Papers, Derby.
241. Jamison to Wilmot-Horton, 29 June 1824, CO 201/156, ff.71-75; Field to Marsden, 18 May 1825, Marsden Papers ML A1992.
242. Various correspondence May to September 1824, Macarthur Papers ML A2962; Bathurst to Brisbane, 17 August 1824, HRA i,X1,349; Brisbane to Bathurst, 4 August 1825, with encls., ibid., pp.698-717. J.Macarthur jr had suggested Scott as the arbitrator. J.Macarthur jr to Wilmot-Horton, 14 August 1824, Catton Papers, Derby.

mid-1823.[243] Macarthur was convinced that his affairs would suffer under the Brisbane administration. He was deeply offended that Brisbane allowed Goulburn to insult him.[244] Macarthur depended on the friendship of his son John Junior with the colonial under-secretary, Robert Wilmot-Horton, to counteract the obstruction of the colonial government. This influence at the Colonial Office perturbed officials and settlers in New South Wales.[245]

Macarthur's frequent complaints that the colonial government refused to obey direct orders from the Colonial Office were effective because Brisbane was slow to explain his position.[246] John Macarthur junior was aware of his father's dislike of Goulburn and Douglass but he did not appreciate his isolation from the plots of his cousin Hannibal and Marsden. He knew of the activities of Field and King in London and even forwarded some of King's information against Douglass to Wilmot-Horton.[247]

The Macarthurs, Marsden, Jamison and King believed that their experience, wealth and intelligence entitled them to comment on the best interests of the colony; however, the structure of colonial government denied them the recognition and influence that men of their standing would have received in Britain. The only formally recognized position available

243. J.Macarthur to J.Macarthur jr, 30 June 1823, Macarthur Papers ML A2899; Bathurst to Brisbane, 20 September 1824, with encls., HRA i,X1,359-367; Memorandum of a conversation between Wilmot-Horton and Field, n.d. (1825?), CO 201/166, ff.356-357. See also Chapter 2.
244. J.Macarthur to J.Macarthur jr, 31 January 1824, Macarthur Papers ML A2962; Conversation between William and James Macarthur and Brisbane, 5 February 1824, ibid.
245. Jamison to Wilmot-Horton, 29 June 1824, CO 201/156, ff.71-75; Field to Marsden, 28 June 1824, Marsden Papers ML A1992; H.Goulburn to Wilmot-Horton, 15 August 1824, Catton Papers, Derby; Darling to Hay, 10 December 1825, HRA i,X11,83.
246. Forbes to Wilmot-Horton, 29 June 1825, Catton Papers, Derby.
247. J.Macarthur jr to Wilmot-Horton, 21 November 1824, ibid.; J.Macarthur jr to J.Macarthur, 27 December 1824, Macarthur Papers ML A2911.

to the private settler was as magistrate.[248] They were jealous of their magisterial prerogatives and men such as Jamison and the Parramatta magistrates were sensitive when they believed that government officials treated the authority of their bench with contempt.

Excluded from personal influence in official and social affairs under Macquarie, these men hoped for greater involvement under his successor. Their brief eminence in the early months of Brisbane's government was eclipsed by the influence of the colonial secretary and Goulburn's few friends were resented because of their access to authority. The secretary's friends were intelligent young men but they were recent arrivals without extensive commitments in the colony. Though Douglass was the target for most of their jealousy, the Reverend William Walker and the Reverend Thomas Reddall were also attacked for their friendship with Goulburn.[249]

The intrigues and complaints against Brisbane's government were serious because of the prestige of the settlers and officials who made them. Only a few were involved which suggests that, except for the dollar system, there was not sufficient concern to arouse wider opposition. Nor can their motives be generalized as the reaction of all leading free settlers to Brisbane's administration. Douglass was resented

248. Yarwood, op.cit., p.50.
249. Field to Marsden, 28 June 1824, 28 July 1826, Marsden Papers ML A1992; Walker to Wesleyan Committee, 1 February 1826, ML BT Box 53, pp.1598-1601.

because he was a new arrival but this did not imply that rivalry between old and new settlers was the "most important and active division" during these years.[250] Douglass was supported by a number of established settlers such as William Lawson, William Howe and Richard Brooks.[251] Among those who opposed him, the Palmers and John Blaxland were not prepared to go as far as Marsden, Field and Hannibal Macarthur and despite their serious conflict it was possible for other Parramatta magistrates such as Dr John Harris to remain uninvolved.

These settlers were partly motivated by concern for their economic interests.[252] John Macarthur and King believed that their land was threatened. Jamison and Field were concerned by Brisbane's economic policies and this also secured the passive support of Oxley, Berry and several other magistrates. John Blaxland's revival of his dismissal as magistrate in January 1824 was probably due to resentment about delays to his land grant.[253] Yet despite complaints of insufficient convict servants and requests for additional land, these men were not deprived of either, though they did not receive the preferential treatment they probably considered their right.[254]

The attacks of these settlers were motivated by a sense of their own consequence. They were a reaction to their

250. D.W.Rawson, Faction Politics in New South Wales 1820-1840, Unpublished M.A.Thesis, University of Melbourne, 1951, pp.62-63,66-67. For relations between new and old settlers see Chapter 4.
251. Brisbane to Bathurst, 23 May 1825, HRA i,X1,610-611; Judgement of the Supreme Court in Marsden v. Lawson and Douglass, ibid., p.779; Proceedings of a Board of Inquiry, 11 August 1825, ibid., p.791,786.
252. Yarwood, op.cit., p.229.
253. Blaxland to Brisbane, 3 January 1824, CSIL Memorials re:Land 4/1836A; Blaxland to Bathurst, 30 January 1824, CO 201/169, ff.439-440.
254. Brisbane to Goulburn, 20 January 1825, CSIL 4/1785, f.44; Goulburn to Brisbane, 25 January 1825, CSOL 4/3513, p.309. For the extent of land grants to established settlers, see Chapter 5.

impotence in the colony, a demonstration that they could exert influence in Britain if not in New South Wales. Their complaints were

> less felt as grievances than sedulously sought as grounds of complaint against an obnoxious administration - obnoxious for its power,...but chiefly obnoxious because it resisted the ambitious projects of a party which had been gradually gaining ascendency over the colony and which is ready to defy or to calumniate every authority which will not submit to its influence and control. 255

They sincerely believed that the governor's advisers were improper persons and this was moral and political justification to use any means, including deliberate misrepresentation, to reduce the influence of Goulburn and Douglass.[256] Unable to achieve satisfaction in the colony, they relied on the British government to heed their complaints.[257]

Because Goulburn and Douglass held senior positions, any attempt which discredited them cast a shadow over the whole administration. If other officials were to be protected from similar attacks, the government had to defend Douglass.[258] The attacks went further than criticizing unpopular officials. These six settlers implicitly and explicitly questioned the governor's integrity though only Field and Macarthur clearly wanted Brisbane recalled. John Macarthur tolerated no defiance of his wishes and he was soon to boast that he had removed three governors.[259] Henry Goulburn observed that Macarthur

255. Forbes to Wilmot-Horton, 29 June 1825, Catton Papers, Derby.
256. Forbes to Wilmot-Horton, 30 October 1825, HRA i,X1,957.
257. J.J.Eddy, Britain and the Australian Colonies 1818-1831 (Oxford, 1969), pp.94-95,104.
258. Forbes to Wilmot-Horton, 30 October 1825, HRA i,X1,956.
259. Douglass to F.Goulburn, 29 May 1826, Goulburn Papers, Surrey County Record Office, Acc.319, Box B11/9/E, No.62; Darling to Hay, 1 May 1826, HRA i,X11,254-255.

> always had been a decided enemy to Government in the abstract as well as to all Governors of New South Wales in particular, he does not fail to avail himself of...information in order to triumph over the Government and thus to raise his own importance. 260

Brisbane was not indifferent to these attacks.[261] He was frustrated because his position prevented him from settling his differences with Jamison and Field more directly with his fists.[262] Yet, despite this personal antagonism, he accepted that it was natural for men with wealth and landed property to seek an influential role in the community. He saw no inconsistency in nominating John Macarthur, Jamison and Charles Throsby, who had opposed the dollar system and supported the dismissed magistrates,[263] for the legislative council where their opportunities for influence and opposition were greater than those available to private colonists.[264]

The immediate targets were Goulburn and Douglass[265] but Brisbane regarded the attacks as personal insults. He believed that the misrepresentations led to his recall and undoubtedly they increased the climate of doubt about the efficiency of Brisbane's government.[266] Bathurst's decision to investigate the charges against Douglass in the colony undermined the system of misrepresentation and Brisbane

260. H.Goulburn to Wilmot-Horton, 15 August 1824, Catton Papers, Derby.
261. Compare A.Atkinson, op.cit., p.195 that Brisbane was isolated from these attacks because of his indifference.
262. Brisbane to Craufurd, 13 February 1823, Brisbane Papers PRO PMG1/1; Brisbane to (Bruce?), 31 December 1823, Brisbane Papers ML FM4/1626, Section 1.
263. Resolution of a meeting of magistrates, 23 August 1822, HRA i,X,763; Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.21.
264. Brisbane to Bathurst, 1 November 1824, with encl., HRA i,X1,406; Brisbane to Bathurst, 18 November 1825, ibid., p.903; Brisbane to Wilmot-Horton, 31 January 1825, Catton Papers, Derby.
265. Field to Marsden, 16 December 1825, Marsden Papers ML A1992.
266. Brisbane to (Craufurd?), 13 May 1825, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Bruce, - September 1825, Brisbane Papers ML UCMSS 329; Brisbane to Arthur, 1 September 1825, Arthur Papers ML A2166. See Chapter 9.

applied the same remedy to the Emu Plains charges.[267]

The attacks on Brisbane's administration showed little unity or leadership. Field provided some co-ordination in London but he did not intend to return to New South Wales. Furthermore, men such as Berry and Wollstonecraft who sympathized with the attacks on Goulburn and Douglass were suspicious of Field.[268] Macarthur also resented Field while Jamison and Macarthur were bitter critics of each other, as were Macarthur and Marsden. These intense personal divisions, combined with specific private motivations, prohibited any unity among the free settlers. Nevertheless, this situation was changing during the closing months of Brisbane's government. Increasing colonial awareness of wider political issues overlaid these earlier personal antagonisms and a clearer sense of unity emerged.

267. Forbes to Wilmot-Horton, 30 October 1825, HRA i,X1,956; Eddy, op.cit., p.97.
268. Wollstonecraft to Berry, 15 September 1823, Berry Papers ML UCMSS 315/13.

Chapter 8 - Political Stirrings.

In the 1820s there was an emerging colonial interest in the introduction of traditional British constitutional forms such as trial by jury and legislative representation. The authoritarian constitution of the government of New South Wales had been criticized since its establishment but these objections were tempered by the penal nature of the settlement. The presence of former convicts limited the political rights of the free settlers and, as the number of former convicts increased, their rights and their expectations for political participation could not be avoided in discussions about constitutional changes, whether by the British government or the colonists themselves.[1]

There had been spasmodic interest in the possibility of trial by jury. Governors King, Bligh and Macquarie and Judge Ellis Bent suggested that trial by jury should replace the military juries which were resented by the increasing number of free colonists. A select committee on transportation in 1812 favoured trial by jury and a council to assist the governor but the British government was unwilling to make such extensive changes until convinced that the prejudices of the free settlers and former convicts would not hinder the operation of traditional institutions.[2] In 1808 a request for trial by jury had been included in a petition about economic matters from a group of settlers but eleven years

1. A.C.V.Melbourne, Early Constitutional Development in Australia (1934 and St Lucia, 1972), pp.6-11,47-48. Compare W.G.McMinn, A Constitutional History of Australia (Melbourne, 1979), p.15 that the problems of the former convicts "entangled" constitutional issues with the colony's class struggle for twenty years.
2. Melbourne, op.cit., pp.40-46; Bathurst to Macquarie, 23 November 1812, HRA i,VII,674.

passed before the settlers again requested its introduction.[3]

In January 1819, Thomas Moore, Richard Brooks, Simeon Lord, William Brown, John Harris and Robert Jenkins requested a public meeting of landowners, merchants and respectable inhabitants to discuss "matters of Importance to the Mercantile and general Interests" of the colony. Moore and Harris were large landowners and Brooks, Brown, Jenkins and Lord were prominent merchants. Only Lord had been a convict.[4] The meeting, chaired by Sir John Jamison, emphasized the commercial advantages if restrictions on the size of vessels trading between the colony and Britain were removed. The desirability of trial by jury, colonial distilling and lower import duties on colonial products were also briefly considered. The resolutions to increase trade were proposed by Jenkins and the other matters were raised by Edward Eagar, a former convict. The committee of thirteen selected to draft a petition included five of the settlers who had called the meeting (Moore was not on the committee), Jamison, Gregory Blaxland and Robert Townson who were large landowners, Frederick Garling the Crown solicitor, Edward Smith Hall a less prominent free settler who later became editor of the Monitor , and two former convicts Eagar and Dr William Redfern.[5]

The petition differed in emphasis from the initial resolutions. It opened with criticisms of the judicial

3. Settlers' Address to Bligh, 1 January 1808, HRA i,V1,373-374.
4. S.G., 16 January 1819; ADB, Vols. 1 and 2.
5. S.G., 23 January 1819; ADB, Vols. 1 and 2.

system and a request for trial by jury, then detailed the economic grievances. After some discussion, this format was accepted and the committee enlisted the help of the clergy and magistrates to collect signatures. Within a month the petition had been signed by 1,261 colonists amongst whom, according to Macquarie, were all "the Men of Wealth, Rank or Intelligence", as well as many families of smaller free settlers and former convicts.[6]

Despite this support, several leading free settlers had reservations about the trial by jury clauses.[7] Every Englishman believed that trial by a jury of his peers was his constitutional right but few could ignore the prominence of former convicts in the colonial population. The Windsor magistrates, William Cox, James Mileham and John Brabyn, supported trial by jury but cautioned against raising the controversial question as to who would be eligible as jurymen. Cox included a list of 307 Hawkesbury residents who held sufficient property to be jurymen and almost half had been convicts.[8]

John Macarthur refused to sign Jamison's "ragtail and bobtail" petition. Although he supported a reduction in wool duties, he did not consider the colony ready for trial by jury because former convicts would not act impartially.[9]

6. Macquarie to Bathurst, 22 March 1819, with encl., HRA i,X,52-65. A signed copy of the petition is at CO 201/94, f.73 ff.; S.G., 13 February, 20 March 1819; J.T.Bigge, Report of the Commissioner of Inquiry on the Judicial Establishments of New South Wales and Van Diemen's Land (1823 and facsimile edition Adelaide, 1966), p.36.
7. Bigge, Judicial Report, p.36.
8. Cox, Mileham and Brabyn to Jamison, 9 February 1819, ML BT Box 18, pp.2447-2449; Cox to Jamison, 9 February, 15 February 1819, ibid., p.2446, 2458.
9. J.Macarthur to J.Macarthur jr, 20 February 1820 quoted in S.M.Onslow, Some Early Records of the Macarthurs of Camden (1914 and Adelaide, 1973), p.337,339; Evidence of J.Macarthur in J.Ritchie, The Evidence of the Bigge Reports (2 vols., Melbourne, 1971), Vol.2. Written Evidence, pp.88-89.

John Oxley refused on the same grounds. John Piper and D'Arcy Wentworth declined to sign because they held official positions though Wentworth also privately opposed trial by jury.[10] Garling and Townson were members of the petition committee but did not sign. Gregory Blaxland, another member of the committee, hoped that general support for trial by jury would reconcile those who advocated its immediate introduction with those who wanted to wait, yet he also did not sign the petition.[11] In contrast, the Reverend Samuel Marsden opposed trial by jury but signed the petition because he favoured other judicial reforms and economic encouragement.[12]

The emphasis on trial by jury was due to Edward Eagar, the committee's secretary. Trained as a lawyer, Eagar had arrived in the colony in 1811 with a life sentence. He soon obtained a conditional pardon and became a successful attorney. In 1815 Judge Bent ruled that former convicts could not practise law and Eagar turned to commercial activities.[13] He considered that he had analyzed the "political state and the economy of the Colony" more thoroughly than his fellow settlers and when Bigge arrived Eagar presented him with a lengthy assessment of the colonial government, judiciary and economy. Eagar argued that the settlement had outgrown its initial autocratic structure and that not only trial by jury

10. Jenkins to Eagar, 18 March 1819, ML BT Box 18, p.2515; W.Wentworth to D.Wentworth, 8 July 1819, Wentworth Papers ML A756; Macquarie to Bathurst, 22 March 1819, HRA i,X,54.
11. G.Blaxland to (Jamison?), 11 February 1819, ML BT Box 18, pp.2453-2454.
12. Evidence of Marsden in Ritchie, Bigge - Written Evidence, pp.88-89; Bigge to Bathurst, 9 September 1822, ibid., p.172.
13. N.McLachlan, "Edward Eagar (1787-1866): A Colonial Spokesman in Sydney and London", Historical Studies, 10 (1963), pp.432-433; "E.Eagar", ADB, Vol.1.

but a legislative council and a locally elected house of assembly should be established as in other British colonies. Economic development should be diversified though convict labour would remain integral to the economy. Once freed, a convict should be accepted without distinction.[14]

A similar assessment had been made a few months earlier in Britain by William Charles Wentworth. A son of one of Macquarie's most prominent officials, Wentworth was self-assured and ambitious for political eminence in the colony. In 1819 he published his account of the colony, arguing that it was the only British settlement denied the traditional right of legislative bodies or trial by jury. Without free government there was little incentive for the colonists to develop their property. Whilst acknowledging that some prejudice against former convicts was natural, Wentworth believed that they should have a full, active political role because of their prominence in the population, though subject to good conduct and sufficient property. This would be an incentive to reform.[15]

The proposals of Eagar and Wentworth for a colonial legislative assembly, trial by jury and participation by the former convicts did not reflect colonial interest nor did their views stimulate an immediate response. A small number of free settlers supported a nominated advisory council but few thought the colony ready for an elective body. John Macarthur

14. Eagar to Bigge, 19 October 1819, in Ritchie, Bigge - Written Evidence, pp.3-47.
15. W.Wentworth to D.Wentworth, 25 May 1818, Wentworth Papers ML A756; W.C.Wentworth, Statistical, Historical and Political Description of the Colony of New South Wales (1819 and facsimile edition Adelaide, 1978), p.164, 327,342-344,351-356; A.C.V.Melbourne, William Charles Wentworth (1934 and Penrith, 1972), pp.1-30; J.M.Ward, Colonial Self-Government. The British Experience 1759-1856 (London, 1976), pp.133-134; C.A.Liston, "William Charles Wentworth - The Formative Years 1810-1824", JRAHS, 62 (1976), pp.20-25 McMinn, op.cit., pp.16-17.

considered that the reforms suggested by Wentworth would "seal the destruction of every respectable person" in the colony.[16] Judge Field believed that Wentworth's advocacy of participation by former convicts would only hinder the introduction of trial by jury. Wentworth encouraged a sense of division by referring to the free settlers as "interlopers". Such distinctions prevented the development of an impartial atmosphere for the effective introduction of traditional constitutional forms.[17]

Bigge questioned the judges about participation by former convicts in juries. Judge-Advocate Wylde believed that former convicts should be jurors because they had always been accepted as witnesses and were deeply involved in the activities of the free inhabitants.[18] For Judge Field, legal technicalities negated any simple answer. Not all convicts were restored to their full legal rights once they had served their sentences. Their legal disabilities depended on their offences and sentences. These limitations were not expressed in the colonial certificates of freedom thereby encouraging a mistaken belief in the automatic restoration of full free legal status. Field argued that these technicalities could exclude former convicts whose conduct might otherwise entitle them to consideration as jurors and Bigge agreed.[19]

Field's views on these legal complexities were brought to the attention of the colonists in 1820. In April and

16. J.Macarthur to J.Macarthur jr, 20 February 1820, in Onslow, op.cit., p.337; B.Fletcher, "Sir John Jamison in New South Wales 1814-1844", JRAHS, 65 (1979), p.13,16-17; Evidence of Marsden in Ritchie, Bigge - Written Evidence, p.123; McMinn, op.cit., p.18.
17. Field to Bigge, 23 October 1820, HRA iv,1,868-869.
18. Bigge, Judicial Report, p.36.
19. Ibid., pp.34-40; Field to Bigge, 23 October 1820, HRA iv,1,464.

September 1820, he ruled that the governor's pardon had to be validated in Britain before a former convict could initiate legal action, hold or convey property or give evidence in court.[20] In January 1821, Simeon Lord and eight unnamed householders requested a public meeting to discuss the implications of these decisions for the "emancipated colonists". The meeting was chaired by Dr William Redfern but the main business was conducted by Edward Eagar who had been a principal in the two cases. Eagar declared that Field's ruling enshrined the attitude of "Convict once, Convict for ever". A petition to parliament, stating the numbers and property of former convicts and appealing for legal security, was adopted and a committee of nine former convicts was selected to arrange signatures and transmit the petition to Britain. The committee members were Redfern, Lord and Eagar with the merchants Samuel Terry, James Underwood and Daniel Cooper and the officials James Meehan, William Hutchinson and the Reverend Henry Fulton.[21] The petition was sent to Britain in October 1821 with 1,367 signatures.[22]

Eagar and Redfern took the petition to Britain where for the next two decades Eagar lobbied for constitutional reforms in New South Wales. His activities on behalf of the former convicts, though primarily concerned with their legal status, identified them as a distinct political group. One aspect of this identification was the use of the term "emancipist".

20. J.Ritchie, Punishment and Profit (Melbourne, 1970), pp.161-162. See also Chapter 4.
21. S.G., 6, 27 January 1821; Eagar to Bathurst, 3 April 1823, HRA iv,1,464; ADB, Vols. 1 and 2.
22. Macquarie to Bathurst, 22 October 1821, with encl., HRA i,X,549-556.

Former convicts were referred to as expirees, remitted convicts, pardoned convicts or simply as people who had been convicts. "Emancipation" and "emancipated convict" were used from the earliest years, adopting the terminology of the slave communities in the West Indies.[23] All phrases emphasized their convict origin. The 1821 petition changed this emphasis by referring to former convicts as "emancipated colonists", stressing their activities as free men. That this term was a recent innovation was evident in the comments of those who opposed the petition. Judges Wylde and Field protested against the meeting of "remitted convicts and expirees" called in their petition "emancipated colonists".[24] James Bowman commented on these moves

> for bettering the condition of the vagabond class when they become free. You will be a little amazed at the new terms used at their late meeting.... Emancipated colonists were not known until lately but pardoned convicts have long infested this place. [25]

The phrase "emancipated colonist" was probably coined by Eagar when he prepared the petition and when he went to Britain he used an abbreviated form, "emancipist", in his discussions with the Colonial Office.[26] Bigge acknowledged

23. Phillip to Grenville, 5 March 1791, HRA i,1,251; King to the Transport Commissioners, 10 March 1801, HRA i,111,84. The Oxford English Dictionary (Oxford, 1933) traced the words "emancipate", "emancipation" from Latin to the terminology of slavery in the seventeenth century but dated the term "emancipist", derived from emancipate plus 'ist, as late as 1852. Macquarie used no particular term to describe this group, changing from "emancipated convicts" to "men who had been convicts". Macquarie to Liverpool, 17 November 1812, HRA i,V11,598,616-617; Macquarie to Bathurst, 22 June 1815, HRA i,V111, 489; Macquarie to Bathurst, 31 March 1817, HRA i,1X,238.
24. Wylde and Field to Macquarie, 7 January 1821, ML BT Box 25, p.5603.
25. Bowman to Buchanan, - February 1821, Buchanan Papers, Macarthur Collection ML A4266.
26. Eagar to Bathurst, 6 November 1822, in Ritchie, Bigge - Written Evidence, p.212; Eagar to Bathurst, 3 April 1823, HRA iv,1,458-459,461. Eagar substituted "emancipated colonist" for "emancipated convict" when he quoted Bigge's report. Compare Eagar to Bathurst, 6 November 1822, in Ritchie, Bigge - Written Evidence, p.226 with J.T.Bigge, Report of the Commissioner of Inquiry into the State of the Colony of New South Wales (1822 and facsimile edition Adelaide, 1966), p.153.

that the term "emancipist" was Eagar's.[27] In 1824, Wentworth rewrote his book in collaboration with Eagar and introduced "emancipist" to differentiate the "third class" of the colony from the voluntary settlers.[28] From this time, the term was increasingly used by the colonial press and in general conversation.[29] In February 1825, the attorney-general referred to "the class familiarly called the Emancipists" and by the close of 1825, the term was firmly established among settlers and officials, including the new governor.[30] Those who opposed the ambitions of Wentworth and Eagar resisted the term and continued to refer to the "convict party".[31] One consequence of the political stirrings at the end of Brisbane's government was the identification of some liberal free settlers with the former convicts in a political movement which was referred to as the "emancipist" party.[32]

A descriptive term for the group who opposed the emancipists was slower to emerge. Eagar had divided the colony into "emancipated colonists" and "emigrant colonists" and this general distinction, abbreviated to "emancipists" and "emigrants" remained in general usage.[33] Eagar identified the "party

27. Remarks of Mr Bigge upon the Charges of Edward Eagar, 4 February 1823, in Ritchie, Bigge - Written Evidence, p.266.
28. W.C.Wentworth, A Statistical Account of the British Settlements in Australia (2 vols., London, 1824), Vol.1, p.381.
29. e.g. Australian, 28 October, 2, 16 December 1824.
30. Bannister to Wilmot-Horton, 8 February 1825, HRA iv,1,584; Mrs Brooks, Diary, 30 September 1825, NLA MS 1559/4; H.Dumaresq to Mrs Dumaresq, 25 November 1825, H.Dumaresq Letters ML A2571; Darling to Hay, 10 December 1825, HRA i,XII,81-84.
31. Oxley to King, 31 January 1823, King Papers ML A1976; C.Macarthur to King, 22 August 1826, ibid.; Field to Marsden, 18 May 1825, Marsden Papers ML A1992; J.Macarthur, New South Wales (1837) in C.M.H.Clark, Select Documents in Australian History 1788-1850 (Sydney, 1969), pp.328-329.
32. See below.
33. Petition of the Emancipated Colonists, 1821, HRA i,X,549-556; Bowman to Buchanan, - February 1821, Buchanan Papers, Macarthur Collection ML A4266; Eagar to Bathurst, 6 November 1822, in Ritchie, Bigge - Written Evidence, p.212; "An Emigrant", S.G., 21 November 1821; P.Cunningham, Two Years in New South Wales (1827 and Sydney, 1966), p.246; Bourke to Stanley, 25 December 1833, HRA i,XVII,303.

determinedly hostile to the Emancipists" as "the Judges with a few of the old Emigrant Settlers", the Macarthur "faction".[34] Wentworth had earlier described an "aristocratic body" which resisted any privileges for those who had been convicts and condemned it as a "faction (they deserve no milder appellation)".[35] Wentworth retained the term in the revised edition of his book with phrases such as a "turbulent and violent faction" and an "aristocratic faction" or "junta".[36] Later, the Australian criticized the "faction" who opposed the emancipists.[37] "Faction" was an imprecise term which generally referred to divisive, self-interested parts of the community. It was used in this sense by Brisbane to describe opponents of his administration who were not necessarily opposed to the emancipists.[38] By the close of Brisbane's administration, the governor's critics were identified with the emancipists' opponents and this reinforced the use of "faction".[39] Similarly, contemporary references to "party" denoted a sense of division and opposition rather than a group with common political ambitions.[40]

Macquarie had referred to those who wanted the "exclusion" of former convicts from colonial affairs[41] and phrases such as

34. Eagar to Bathurst, 3 April 1823, HRA iv,1,465; Eagar to Bathurst, 6 November 1822, in Ritchie, Bigge - Written Evidence, p.215.
35. Wentworth, Statistical, Historical and Political Description, p.346.
36. Wentworth, Statistical Account, Vol.1, p.350,382-383,404.
37. Australian, 1 December 1825.
38. Brisbane to Bruce, 30 January 1824, - September 1825, Brisbane Papers ML UCMSS 329. See also Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.35; P.Loveday and A.W.Martin, Parliament, Factions and Parties (Melbourne, 1966), pp.3-4.
39. Scott to Wilmot-Horton, 13 January 1826, CO 201/179, f.401.
40. Brisbane to Bathurst, 3 November 1824, HRA i,XI,410; Mrs Brooks, Diary, 1 September 1825, NLA MS 1559/4.
41. Macquarie to Duke of York, 25 July 1817, HRA i,1X,444.

"exclusive privileges" or "exclusive caste" were used throughout the convict period.[42] During the controversy over the exclusion of emancipists from a farewell dinner for Brisbane, Wentworth coined the term "exclusionist",[43] which survived to distinguish opponents of the emancipists.[44] Another term, "pure merinos", identified colonists who wished to remain as uncontaminated as Macarthur's flocks.[45] References to merinos and sheep were common after Macarthur took an active role in colonial politics in 1825.[46] The old emigrant settlers referred to themselves as the "old proprietors" or "aristocrats".[47]

By the time of Brisbane's arrival in late 1821, a framework of constitutional ambitions had been sketched by Wentworth and Eagar but there had been little colonial interest. Neither was in the colony to provide leadership. The request for trial by jury in the 1819 petition had been noted by the

42. "A Banished Man", Australian, 3 February 1825; Report of the Select Committee on Transportation, 1838 quoted in C.M.H.Clark, Sources of Australian History (Melbourne, 1977), p.214.
43. S.G., 24 October 1825.
44. "An Emigrant", S.G., 21 November 1825; Cunningham, op.cit., p.250; J.D.Lang, An Historical and Statistical Account of New South Wales (2 vols., London, 1837), Vol.1, p.212; J.Hood, Australia and the East (1843) quoted in R.Ward, The Australian Legend (1958 and Melbourne, 1970), p.39. In 1844 Mrs Meredith used the noun "exclusives" but later nineteenth century accounts, following Lang's interpretation, retained "exclusionist". L.Meredith, Notes and Sketches of New South Wales (1844 and Sydney, 1973), p.42; D.Blair, The History of Australasia (Glasgow, 1878), p.331; W.F.Morrison, The Aldine Centennial History of New South Wales (2 vols., Sydney, 1888), Vol.1, p.97. After the turn of the century, the shorter term "exclusives" was generally used. A.W.Jose, History of Australasia (1899 and Sydney, 1911), p.48; Melbourne, Constitutional Development (1934), p.59; M.H.Ellis, Lachlan Macquarie (1947 and Penrith, 1972), p.154. More recent works have used either term. M.Barnard, A History of Australia (1962 and Sydney, 1969), p.106,329 used "exclusionist" while F.Crowley (ed.), A New History of Australia (Melbourne, 1974) used "exclusives" in the text and "exclusionists" in the index.
45. "J.T.Campbell", S.G., 12 February 1824; R.Therry, Reminiscences of Thirty Years' Residence in New South Wales and Victoria (1863) quoted in R.Ward, op.cit., p.45, fn.31.
46. e.g. S.G., 17 November 1825.
47. J.Macarthur, Memorandum, n.d.(1822?) in Onslow, op.cit., p.359; Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.38.

Colonial Office but any decision had to await Bigge's report. The economic grievances had been anticipated and new policies introduced. As the 1821 emancipist petition did not leave the colony until the month before Brisbane arrived, no response was expected for at least a year.[48]

Bigge identified the leaders of the emancipists as William Redfern, Edward Eagar, Samuel Terry and William Hutchinson.[49] All were members of the committee for the emancipist petition and they represented different levels of achievement among the former convicts. Redfern's talents as a doctor and his friendship with Macquarie ensured him greater respectability and acceptance than most emancipists could achieve. Eagar was the intellectual, a man with a vision not only for the emancipists but for the entire colony. Terry was one of the wealthiest men in the colony but despite his financial success he lacked the polish of Eagar or Redfern. Hutchinson had acquired considerable power as superintendent of convicts.[50] Redfern and Eagar were the active leaders and after they left with the petition in October 1821, there was little attempt by either Terry or Hutchinson to supplant them.

The emancipist welcome for the new governor was subdued. At a meeting in October 1821, Judge Field and Sir John Jamison proposed a welcome address for Brisbane but a heated argument arose when the emancipist merchants F.E.Forbes and Terry objected that praise of the new governor was a reflection

48. Bathurst to Macquarie, 24 March 1820, HRA i,X,295-296; S.G., 27 October 1821.
49. Bigge, New South Wales, p.153.
50. ADB, Vols. 1 and 2; S.G., 27 January 1821; G.M.Dow, Samuel Terry. The Botany Bay Rothschild (Sydney, 1974), p.61,87,173.

against Macquarie. When this protest was over-ruled, the emancipists Simeon Lord, James Meehan and Samuel Terry insisted that they be among the party which presented the address. The officials and clergy refused and the project was dropped.[51] An address was finally prepared after Brisbane arrived by the magistrates and officials but, due to a "lamentable want of unanimity", it was accredited from the "undersigned" people rather than the colonists in general.[52] The magistrates, clergy and landowners of the Hawkesbury district presented a separate address.[53]

James Bowman had been concerned about the impact of the emancipist petition in Britain and wanted it discredited and ridiculed in the British press.[54] Brisbane's evident coolness toward the former convicts reassured the free settlers.[55] Oxley commented that the "convict party" appreciated Wentworth's support in London but they had little else to boast about since they were now "kept tolerably in the background".[56] Judge Field noted the absence of emancipist leadership after Macquarie's departure and speculated that the return of Redfern and Eagar with the help of Laurence Halloran and his son-in-law, Francis Shortt, might revive their activities.[57] Eagar remained in London and although the emancipist school teacher, Halloran, was a frequent commentator in the colonial press, he was a quarrelsome man without a personal following.

51. G.W.D.Allen, Early Georgian. Extracts from the Journal of George Allen 1800-1877 (Sydney, 1958), pp.68-69.
52. S.G., 1, 8 December 1821.
53. S.G., 22 December 1821.
54. Bowman to Buchanan, - February 1821, Buchanan Papers, Macarthur Collection ML A4266.
55. See Chapter 4.
56. Oxley to King, 31 January 1823, King Papers ML A1976.
57. Field to Marsden, 28 June 1824, Marsden Papers ML A1992.

Shortt was more interested in his commercial affairs and his dispute with his former partner, Alexander Berry.[58]

The circumstances of the 1821 emancipist petition had encouraged unity and leadership among an otherwise diverse group. There had been few occasions with such potential. A more regular gathering of emancipists with their colonial born children was the annual celebration of the foundation of the colony. These activities were dominated by the successful emancipists with little involvement by the majority.[59] The disunity apparent at the 1820 dinner was overcome but the most constant figure at the 1821, 1822, 1823 and 1824 dinners was Simeon Lord whom Bigge had not included among the emancipist leaders.[60]

The nearness of the anniversary on the 26 January to Macquarie's birthday on the 31st linked the celebrations. In 1822, the Sydney anniversary dinner was postponed until Macquarie's birthday and a separate anniversary dinner was held in the Hawkesbury district.[61] In 1823 three dinners were held - one by Lord and another by Terry to celebrate the colony's anniversary and a third by J.T.Campbell to remember the former governor's birthday.[62]

Macquarie's departure removed the symbol of emancipist unity[63] and there was little consolation in the indifferent

58. "A.Berry", "L.Halloran", ADB, Vol.1; S.G., 17 November 1825; "Fidelitas", S.G., 28 November 1825. Halloran's involvement in John Macarthur's plans for an exclusive newspaper was incompatible with aspirations for emancipist leadership.
59. R.W.Connell and T.H.Irving, Class Structure in Australian History (Melbourne, 1980), p.49. The anniversary dinners had been held since 1813. C.H.Currey, "An Argument for Australia Day", JRAHS, 43 (1957), pp.158-159.
60. Gow, op.cit., pp.172-173; S.G., 20 January 1821, 25 January 1822, 6 February 1823, 15 January 1824; Bigge, New South Wales, pp.82-83.
61. S.G., 25 January, 1 February 1822.
62. S.G., 6 February 1823; Gow, op.cit., p.191.
63. Though Bowman believed that few emancipists were grateful towards the governor who was so identified with their cause. Bowman to Buchanan, - September 1820, Buchanan Papers, Macarthur Collection ML A4266.

tolerance of his successor. This depression was expressed by Macquarie's poet-laureate, M.M.Robinson, in his Anniversary Ode for the dinner in January 1824 which made little secret of their dissatisfaction with Brisbane and Goulburn.

> What care we for the skill to scan
> The bright stars overhead?
> Give us for Governor the man
> Who rules and is obey'd.
> CHORUS:
> Macquarie was the prince of men!
> Australia's pride and joy!
> We ne'er shall see his like again;
> Here's to the OLD Viceroy!
> ....
> Here's to Sir Thomas' release,
> The old Viceroy's return;
> And fourteen years beyond the seas
> For thee, Frederick Goulburn.
> CHORUS:
> Macquarie was the prince of men! 64

By the next anniversary, this melancholia had been abandoned. Macquarie was dead; there could be no return to the past. At the anniversary dinner in January 1825, Brisbane was toasted with Macquarie and Phillip, trial by jury, freedom of the press and a house of assembly.[65] A new attitude had been deliberately fostered by the colonial press which created an image of Brisbane as a viceroy as sympathetic to the emancipists as Macquarie. A new political interest was stirring which required a liberal hero.

An essential factor in increasing political awareness during the Brisbane period was the colonial press. Until October 1824, there was only one newspaper, the Sydney Gazette, which had been established in 1803 with the support of the

64. M.M.Robinson, "The Old Viceroy" quoted in A.Hewison, The Macquarie Decade (Melbourne, 1972), pp.201-202. A different ode was published with the reports of the dinner. S.G., 5 February 1824.
65. S.G., 3 February 1825; Australian, 3 February 1825.

colonial government. Material was submitted to the governor's secretary who had the right of veto. Editorial comment was limited to support of government policies and the paper consisted mainly of official notices and advertisements. The Sydney Gazette was edited by a former convict, George Howe, until his death in 1821 when his son Robert succeeded him.[66]

The obvious significance of the publication of the Australian in 1824 has diverted attention from the increasing independence of the Sydney Gazette during the early years of Brisbane's government. This was a relevant prelude to the appearance of a free and competitive press in 1824.[67]

The introduction of the dollar policy in early 1822 provoked much comment and dissatisfaction. The Sydney Gazette published extensive correspondence on both sides of the issue throughout 1822. This was a significant departure from the Gazette's earlier silence on government policies. Robert Howe, a staunch supporter of Macquarie, openly admitted that Macquarie would never have tolerated such discussion. He claimed that the dollar incident opened a new era in the liberty of the press.[68]

The Sydney Gazette attributed its greater independence to Goulburn's interpretation of his authority as press censor.[69] It was not government surveillance but criminal and civil libel which formed the major restraint on the press.[70]

66. R.B.Walker, The Newspaper Press in New South Wales 1803-1920 (Sydney, 1976), pp.1-5; "G.and R.Howe", ADB, Vol.1.
67. Farewell address to Brisbane, 26 October 1825, HRA iv,1,629.
68. S.G., 27 February 1823, 11 August 1825.
69. S.G., 6 January, 10 October 1825.
70. S.G., 6 December 1822, 6 March 1823.

Goulburn's attitude may well have arisen from the increased workload in the colonial secretary's office. To those who complained of personal attacks in the press, Goulburn replied that

> the province of...censorship extends only to a protection of the interests of Government, but in regard to all matters of private concern leaves Mr Howe wholly unfettered. 71

Even when government issues were involved, Goulburn was unwilling to act. The deputy commissary general, Wemyss, complained about criticisms of his department in the dollar discussions but no action was taken to silence the press.[72]

It was unlikely that Brisbane would have tolerated criticism of a vital policy unless he accepted the principle of colonial comment. Although he had the authority to enforce censorship, he did so only once. In January 1824, part of a farewell address by the Agricultural Society to its departing president, Judge Field, was censored. Brisbane, as patron of the society, disagreed with a reference to Field's judicial impartiality and the offending paragraph was censored. Brisbane acted from bitterness at Field's opposition rather than protection of government interests.[73]

This new independence relied on the toleration of the colonial government. In January 1823, Howe refused to publish criticism of Dr Douglass because he considered it "too delicate a subject".[74] Uncertainty about the extent of government censorship was apparent in a number of libel prosecutions of

71. Goulburn to Wollstonecraft, 9 October 1822, Berry Papers ML UCMSS 315/27. See also Goulburn to Wood, 4 March 1823, CSOL 4/3507, p.389; Goulburn to Parr, 18 March 1823, ibid., p.476.
72. Wemyss to Brisbane, 29 July 1822, CSIL 4/1761, f.71.
73. Brisbane to Bruce, 14 February 1824, Brisbane Papers ML UCMSS 329; Brisbane to Bathurst, 23 May 1825, HRA i,X1,613; S.G., 3 February 1825; Australian, 3 February 1825.
74. Howe to Goulburn, 16 January 1823, CSIL 4/1764, f.40.

the Sydney Gazette. In one defence, Howe claimed that he was obliged to publish whatever the censor passed[75] though earlier he had stated that he could use his discretion about material that had been through the censor's office.[76] The routine of submitting material to the censor was still followed but censorship between 1822 and 1824 had become a formality not a restriction.

In early 1823 there were suggestions to establish another newspaper by public subscription. The governor approved in principle but insisted that it be subject to the censor and Howe agreed. Howe was concerned that Eagar might return with a printing press and he ordered new equipment to increase the efficiency of the Sydney Gazette.[77] A few weeks later Gilbert Macleod was confident that he had government approval to open another printing office.[78] Macleod was still a convict. He had been a printer in Glasgow and had been found guilty of publishing a seditious article criticizing the British parliamentary system and the Peterloo riot in Manchester. He was transported for five years in 1820 but received a Colonial Office pardon in 1823.[79] Macleod's paper never appeared and he turned to school teaching.[80] He was a friend of Laurence Halloran who published the Gleaner four years later.[81]

75. Forbes to Wilmot-Horton, 7 November 1824, Catton Papers, Derby.
76. S.G., 8 March 1823, 6 May 1824.
77. R.Howe, Diary, 2, 4 January 1823, ML B846/1; S.G., 2 January, 24 April, 15 May, 27 November 1823.
78. Macleod to Goulburn, 1 February 1823, CSIL 4/1764, f.45.
79. I am grateful to the Deputy Clerk of the High Court of Justiciary, Edinburgh and the Research Department of the Scottish Record Office, Edinburgh for information about Macleod's conviction. Macleod was pardoned in mid-1823. Bathurst to Brisbane, 3 June 1823, HRA i,X1,88-89; S.G., 30 October 1823.
80. S.G., 26 December 1825.
81. S.G., 24 April 1823; "L.Halloran", ADB, Vol.1.

In October 1824, the first issue of the Australian appeared. Loudly proclaiming the independence of a free press, the Australian boasted that it had neither sought permission to publish nor informed the authorities of its intentions.[82] In fact, the appearance of the Australian surprised no-one and there had been ample opportunity for Brisbane's administration to prevent publication if it wished. The intentions of the Australian's proprietors, W.C.Wentworth and Dr Robert Wardell, had been common knowledge since their arrival in the colony in July 1824.[83] Wentworth had advocated a competitive free press in the recent edition of his book and he had returned with Wardell, who had been editor of a London radical paper, and a printing press.[84]

Although the editors of the Australian had not sought the governor's permission, they had applied to publish government orders and proclamations.[85] This concession was implicit official recognition of their enterprise. Robert Howe was also aware of their intentions. A fortnight before the first issue of the Australian appeared, Howe asked that the formality of government censorship be removed so that the Sydney Gazette could compete with the forthcoming Australian.[86] Brisbane referred this letter to the attorney-general. Bannister considered that the censorship of the Gazette had arisen from government ownership of the original publishing

82. Australian, 14 October 1824.
83. S.G., 22, 29 July 1824; H.Scott to R.Scott, 8 August 1824, Scott Papers ML A2264.
84. Wentworth, Statistical Account, Vol.1, p.20; C.H.Currey, Sir Francis Forbes (Sydney, 1968), pp.86-87; Walker, op.cit., pp.6-7.
85. Brisbane to Bathurst, 12 January 1825, HRA i,X1,470-471; Editors of the Australian to Brisbane, 3 June 1825, Copies of Letters Received by the Governor, AONSW 4/1618, p.96.
86. Howe to Brisbane, 1 October 1824, CSIL 4/1775, f.174.

materials. Since these had been replaced by the Howes, the colonial government no longer had a proprietory interest in the newspaper and censorship should be removed.[87] Brisbane accepted this opinion and Howe was informed on 15 October 1824 that censorship of his newspaper no longer existed.[88]

Brisbane did not introduce licences or taxes in place of censorship and the press in New South Wales in these years was freer than its contemporaries in Britain.[89] Both Howe and Macleod had ~~anticipated~~ expected that the government would license the press and Bannister had suggested a tax to replace censorship.[90] The governor of Van Diemen's Land, where Bannister had also recommended the end of censorship, believed that Brisbane should impose publishing licences.[91] Brisbane's lack of action was probably influenced by the opinion of the chief justice. Forbes was aware of the dangers of a totally free press but felt that any restraint should be introduced by the British government.[92] Brisbane was not prepared to propose local restrictions to the new legislative council.[93] The question of press restraints became a major dispute between Forbes and Brisbane's successor, Darling, when the governor attempted to introduce controls through the council.[94]

The Sydney Gazette and the Australian, like a colonial Caesar and Pompey,[95] competed ferociously and took opposing

87. Bannister to Brisbane, 13 October 1824, CSIL 4/1777, f.217.
88. Goulburn to Howe, 15 October 1824, CSOL 4/3512, p.557; S.G., 14, 21 October 1824.
89. Walker, op.cit., p.6.
90. Macleod to Goulburn, 1 February 1823, CSIL 4/1764, f.45; S.G., 15 May 1823; Bannister to Brisbane, 13 October 1824, CSIL 4/1777, f.217.
91. Arthur to Wilmot-Horton, 14 September 1825, HRA iii,1V,367; Forbes to Wilmot-Horton, 27 May 1827, HRA iv,1,719; Currey, op.cit., p.87.
92. Forbes to Wilmot-Horton, 24 March 1825, HRA iv,1,591; Forbes to Wilmot-Horton, 29 November 1825, Catton Papers, Derby.
93. Brisbane to Bathurst, 12 January 1825, HRA i,X1,470-471.
94. Currey, op.cit., pp.200-234.
95. Brisbane to Wilmot-Horton, 31 January 1825, Catton Papers, Derby.

sides on most issues. The Sydney Gazette generally supported the colonial and British administrations whilst the Australian was more critical, particularly of the British government.[96] The two papers provided local information and reprinted extracts from a variety of British and colonial newspapers. Between May and September 1825, Howe experimented with a second, more outspoken paper, the Weekly Commercial Express, but suspended its publication to print the Sydney Gazette twice a week.[97] In October 1825, when the Gazette became a bi-weekly, Howe was publishing two runs of 576 and 566 copies at a cost of 9d each while the Australian printed a weekly run of 650 issues.[98] Another newspaper, the Monitor to be edited by E.S.Hall, was foreshadowed for the new year.[99]

There were mixed reactions to a competitive press. Judge Field likened the Australian to a radical newspaper in Newgate prison[100] and several colonists and officials were apprehensive about the provocative attitudes of the new paper.[101] Judge Forbes felt that the government's influence was sufficiently strong to tolerate criticism whilst the papers could usefully expose abuses.[102] Brisbane did not mention the Australian in his despatches until some months later. He commented that the Sydney Gazette had benefited from the competition but refrained from official judgement on the Australian.[103] Privately, the governor was less reserved.

96. Brisbane recognized this distinction. Brisbane to Bruce, 20 May 1825, Brisbane Papers ML FM4/1626, Section 1.
97. Weekly Commercial Express, 19 September 1825; S.G., 29 September 1825.
98. S.G., 29 September, 10, 17 October 1825.
99. S.G., 3 October 1825.
100. Field to Marsden, 13 March 1827, Marsden Papers ML A1992.
101. Forbes to Wilmot-Horton, 24 March 1825, HRA iv,1,591; Scott to Wilmot-Horton, 20 June, 27 September 1825, CO 201/168, f.165,176.
102. Forbes to Wilmot-Horton, 7 November 1824, 29 November 1825, Catton Papers, Derby.
103. Brisbane to Bathurst, 12 January 1825, HRA i,XI,470-471.

He described the Australian as an avowed radical paper which advocated all popular causes.[104]

Brisbane was responsible for a free press[105] though his role was passive. He had taken no action when the opposition paper appeared and merely acquiesced when it was discovered that there was no censorship.[106] Nevertheless, Brisbane had positive views on a competitive press. In allowing an opposition paper, he had acted within the principles of the 1823 New South Wales Act. His government had nothing to hide and he hoped that the press would raise matters which needed attention. Though he noted instances when the press misinterpreted his actions, he also claimed its support in other matters.[107]

Brisbane was aware of criticism of the "free manner" in which both the Sydney Gazette and the Australian discussed colonial affairs and personalities but just as the governor required copies of any two English newspapers provided they took opposing sides so was he willing to tolerate the provocative attitudes of the colonial press if one paper presented the alternative view.[108] For Brisbane, freedom of the press was the presentation of both sides of an issue. His attitude to the Australian was consistent with the earlier independence of the Sydney Gazette and other efforts

104. Brisbane to Taylor, 29 January 1825, Catton Papers, Derby; Brisbane to Wilmot-Horton, 31 January 1825, ibid.
105. S.G., 21 July 1825; Field to Marsden, 13 March 1827, Marsden Papers ML A1992; Currey, op.cit., p.201.
106. Forbes to Wilmot-Horton, 27 May 1827, HRA iv,1,719; Scott to Wilmot-Horton, 20 October 1825, CO 201/168, f.190; W.Bland, Examination of Mr James Macarthur's Work, New South Wales Its Present State and Future Prospects (Sydney, 1838), p.32.
107. Brisbane to (Craufurd?), 13 May 1825, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Bathurst, 4 March, 21 May 1825, HRA i,X1,533,596; Brisbane to Arthur, 1 September 1825, Arthur Papers ML A2166.
108. Brisbane to Howe, 24 October 1825, Brisbane's Letter Book ML A1559/3; Brisbane to Craufurd, 14 February 1822, Brisbane Papers PRO PMG1/1.

to establish a competitive press.

Despite their differences on many issues, the Sydney Gazette joined the Australian in championing constitutional reforms. Previously, the Sydney Gazette had confined its opinions to freedom of the press[109] but Howe supported the Australian's demands for legal rights for the emancipists and parliamentary representation.[110] The Australian deliberately excited public opinion on political matters and the success of both papers in stimulating political awareness was apparent from the reaction of the settlers:

> how high party spirit seems here especially since the establishment of the Australian, at least it is more before the public. 111

Another complained that both papers were "too much in the convict interest".[112] The editors of the Australian were aware of their impact on the "reflecting part of the community" and were delighted with their success in undermining "the ancient mode of thinking and...the narrow views which formerly prevailed".[113]

The influence of the press was not limited to the columns of the newspapers. Their editors, particularly W.C.Wentworth, took an active personal role in stimulating political awareness. Wentworth had met the emancipist delegates, Redfern and Eagar, and former governor Macquarie in London in 1822. He and Eagar had discussed their views on the political future of the colony and many of the new ideas in the third edition

109. S.G., 2 January 1823, 22 January 1824.
110. S.G., 16 June, 25 August 1825; Weekly Commercial Express, 18 July, 22 August 1825.
111. Busby to Kelman, 20 December 1824, Kelman/Busby Papers ML MSS 1183.
112. H.Scott to Mrs Scott, n.d.(October 1824?), Scott Papers ML A2264.
113. Australian, 31 March 1825.

of Wentworth's book were a result of his association with Eagar.[114] Wentworth's meeting with the three leading proponents of the emancipist cause introduced him to the personal realities of colonial leadership. Bigge's reports and the 1823 New South Wales Act, which was limited to four years, provided an incentive for Wentworth not merely to review and condemn in his book but to return to New South Wales and encourage the colonists to demand the constitutional future he had envisaged.

Before he left Britain, Wentworth circulated copies of his book among men interested in the colony. The sheep breeder Thomas Henty considered him a "man of talent, but... from his book he is an oppositionist to the Government there".[115] This impression was soon echoed in New South Wales:

> It is very evident from Wentworth's conversation at dinner that he is a downright radical...he is a very ungentlemanlike fellow; he is said to be, or rather is about to be one of the Editors of the Newspaper which is to be established called 'the Australian' he will yet make himself a troublesome fellow. [116]

John Macarthur junior doubted that Wentworth would maintain his championship of the emancipists for very long. Even if he did, he would harm their cause by offending the British government and alerting them to the dangers of encouraging the emancipists.[117]

Wentworth arrived in the colony with his political credentials already established. His book had publicized his

114. Liston, op.cit., pp.30-32; Wentworth, Statistical Account, Vol.1, p.v; S.G., 17 March 1825. Possibly Eagar suggested establishing a colonial newspaper too. R.Howe, Diary, 2 January 1823, ML B846/1.
115. Henty to Street, 25 December 1824, Street Papers ML A3014.
116. H.Scott to R.Scott, 8 August 1824, Scott Papers ML A2264.
117. J.Macarthur jr to E.Macarthur, 12 April 1825, Macarthur Papers ML A2911.

views and its recent edition was a vehement attack on Bigge and the inadequacies of the 1823 Act in not establishing trial by jury or a legislative assembly. He was assured of the personal support of Eagar, Redfern and Macquarie and his efforts to influence the New South Wales Act were appreciated by the emancipists.[118] Wentworth quickly supplied the colonists with practical evidence of his leadership by publishing the Australian and, with his associate Robert Wardell, attacking in the press and in the courts any infringement of what he believed were the constitutional rights of all colonists.[119]

Wentworth's acceptance by the emancipists was confirmed at the anniversary dinner in January 1825, six months after his return. Pre-empting older residents, Wentworth was honoured as president of the dinner and leading emancipists took secondary roles with Redfern as vice-president and Terry and Lord as stewards. Wentworth gave a forty-five minute address on the significance of trial by jury.[120]

In its first issues, the Australian discussed an action by a settler against the military magistrate at Newcastle using it to attack the "unnatural combination of civil and military functions" within the colonial administration.[121] Wentworth's campaign against the military became more personal after he was arrested by soldiers one evening in the streets of Sydney. To his disappointment, Brisbane acted quickly to

118. Wentworth, Statistical Account, Vol.1, pp.322-324,350-351,387-390; Oxley to King, 31 January 1823, King Papers ML A1976.
119. Wentworth and Wardell can be seen as an "embryo intelligentsia", the first of an emerging professional class interested in politics. Eagar could also be included in this group. Connell and Irving, op.cit., p.56.
120. Australian, 13 January 1825; S.G., 3 February 1825.
121. Australian, 14, 28 October 1824. This was also a major criticism of the judicial system. Melbourne, Constitutional Development, pp.76-77.

prevent him exploiting the incident.[122]

The Australian hoped to create political awareness by informing the colonists of their legislative rights. During the first half of 1825, it published the 1823 New South Wales Act with the parliamentary debates. The Australian argued that the legislation implied the colonists' rights to legal and political institutions which they must demand when the act was reviewed in 1827.[123] The colonists were deprived of their rights not by the British government but by other colonists:

> That we are not in the full enjoyment of that constitution which an Englishman is taught to revere, we have not to blame those who really abridged it, but must refer for the deprivation to such of the influential persons here, as chose to mislead, instead of instructing, in order to enjoy for a few years longer, that power and fancied superiority which the old order of things gave them. 124

The Australian's arguments on legal and constitutional rights were sophisticated but on the more immediate issues of trial by jury and participation by the emancipists it generated considerable awareness among both former convicts and liberal settlers.

The jury question was a problem of policy rather than law and in view of conflicting opinions the Colonial Office was inclined to be cautious. In framing the new legislation for New South Wales, it had decided against the immediate introduction of trial by jury; however, the Colonial Office agreed with Bigge that as the free population increased and

122. Wentworth to Brisbane, 26 February 1825, Wentworth's Legal Letter Book ML A1440; Wentworth to Ovens, 19 March 1825, ibid. See also Wentworth's letter on behalf of P.Moore after an assault by the military piquet. Wentworth to Ovens, 19 March 1825, ibid. Wentworth's antagonism toward the military had been apparent in an earlier quarrel with Colonel Molle. Melbourne, Wentworth, p.14.
123. Australian, 28 July 1825.
124. Australian, 17 March 1825.

prejudices between free and freed diminished, trial by jury might be gradually introduced.[125]

> The question of introducing Trial by Jury involves many political considerations....When the Act was drawn...it was proposed to give the Court the right of deciding, at the instance of either party, whether a Jury should be summonsed or not. This proposal was resisted by the Gentlemen connected with the Colony, who were disinclined to the Trial by Jury altogether. The Act was drawn in its present form as a compromise between the extreme opinions advanced by the opposite parties on either side of this controversy. [126]

The compromise, against the advice of the Colonial Office's legal adviser, was to allow juries in the civil courts if both parties agreed, with provision for its extension by the king in council.[127] This limited introduction of trial by jury was overthrown by the interpretation of the New South Wales Act in the colony.

The 1823 legislation established courts of quarter sessions which in Britain were conducted by a bench of magistrates and a twelve man jury. Despite the restriction of jury trial in the supreme court, there were no details of the structure of the minor court. The attorney-general advised Brisbane that a jury was a constituent part of a court of quarter sessions.[128] The Sydney magistrates doubted this interpretation, particularly as the solicitor-general held a contrary view. After two months of discussions, Brisbane suggested that the structure of the court be resolved in the supreme court. Chief Justice

125. Bigge, Judicial Report, p.51; Currey, op.cit., pp.28-31,115.
126. Stephen to Hay, 1 April 1826, HRA iii,V,266-267.
127. Stephen's comments on the New South Wales Bill, 10 May 1823, HRA iv,1, 478-479; Currey, op.cit., pp.30-31; Melbourne, op.cit., pp.100-101.
128. Bannister to Brisbane, 13 September 1824, Forbes Papers ML A741; Bannister to Wilmot-Horton, 8 February 1825, HRA iv,1,583-584; Currey, op.cit., pp.113-116. In Van Diemen's Land, the attorney-general ruled against juries in the quarter sessions.

Forbes heard the case in October 1824 and ruled in favour of juries in the British manner.[129]

The legislation had specified property qualifications for jurors of fifty acres of freehold land or a freehold dwelling valued at £300 but the vital qualification was whether emancipists would be included in the jury lists. The composition of the lists was decided by the magistrates without reference to the written opinion of the attorney-general that a pardoned felon would not be eligible to sit on a jury in England. The first jury lists in October 1824 named only those who had arrived as free men or who were born in the colony.[130]

Field had predicted that a colonial decision against former convicts acting as jurors would cause great bitterness.[131] Wentworth believed that the New South Wales Act established the equality of all colonists to be jurors.[132] The publication of the jury lists coincided with the appearance of the Australian and in both their editorial and legal capacities Wentworth and Wardell contested the exclusion of former convicts. Nine prominent emancipists, all, except the architect Francis Greenway, successful merchants in Sydney,[133] commenced actions in the supreme court with

129. D.Wentworth to Brisbane, 4 August 1824, Forbes Papers ML A741; Ovens to D.Wentworth, 9 August 1824, ibid.; Magistrates to Brisbane, 23 September 1824, Forbes Papers ML A1381; Ovens to D.Wentworth, 28 September 1824, Forbes Papers ML A741; S.G., 9 September, 21 October 1824; "J.T.Campbell", Australian, 11 November 1824; Currey, op.cit., p.116.
130. New South Wales Act, Section 7, HRA iv,1,652; Bannister to Wilmot-Horton, 8 February 1825, ibid., p.584; S.G., 28 October, 4 November 1824; Australian, 21 October 1824.
131. Field to Marsden, 18 May 1825, Marsden Papers ML A1992.
132. Wentworth, Statistical Account, Vol.1, p.417.
133. The emancipists who took legal action were F.Greenway, James Underwood, R.Cooper, H.Marr, D.Cooper, T.W.Middleton, J.Hankinson, S.Levey, S.Lord. S.G., 16 December 1824. All had signed the 1819 petition in favour of trial by jury. Petition of Colonists, 22 March 1819, CO 201/94, f.73 ff.

Wentworth and Wardell as their counsel but Forbes ruled in favour of the existing jury lists.[134]

The exclusion of former convicts from quarter sessions' juries restricted their participation in other public duties. One emancipist complained that he had formerly been empanelled for the coroner's jury, a most responsible duty, but was now excluded.[135] In the Hawkesbury district, the inclusion of colonial youths with little property on lists which omitted wealthier neighbours because of their emancipist status caused some irritation.[136]

The emphasis on the exclusion of the emancipists obscured the significance of the introduction of trial by jury for the rest of the colonists. Forbes believed that British laws were the birth right of British subjects and a colonist should not be deprived of his rights simply because the "soil on which he trod was cultivated by convicts".[137] Nevertheless, even among the free settlers, the proportion who qualified for jury duty was small. In Sydney, only 180 men out of almost 1,500 free or colonial born adult male residents qualified as jurors. They were predominantly merchants, householders or settlers, trademen, officials, publicans and shopkeepers. Very few were colonial born.[138]

Brisbane did not mention the introduction of trial by jury in his despatches until almost a year later when he

134. S.G., 16 December 1824, 23 June 1825; Australian, 2 December 1824, 13 January 1825; Wentworth to Bannister, 25 August, 1 September 1825, 7 January 1826, Wentworth's Legal Letter Book, ML A1440; Currey, op.cit., pp.117-118.
135. "Ralph Russett", S.G., 18 November 1824.
136. "A Colonist", Australian, 18 November 1824.
137. Forbes to Wilmot-Horton, 6 March 1827, HRA iv,1,692.
138. Sydney Jury List, 1 November 1825, CSIL 4/1782, ff.110-115; Colonial Returns 1825.

reported that the earlier prejudices of the magistrates had been overcome. Barely a dozen settlers would now openly object to its introduction in other courts, an opinion supported by testimony from the magistrates in praise of the jury experiment.[139] The year's experience was not without incident. The presentment of the Parramatta grand jury against H.G.Douglass had shown that the jury system could be abused. Judge Stephen felt that the incident was symptomatic of the small number of jurors available and some magistrates argued that emancipists should be included to prevent such abuses.[140]

Brisbane was willing to consider limited participation by former convicts but would not do so without consultation with the British government.[141] Forbes believed that the controversy over the exclusion of the emancipists had been exaggerated by the Australian. He did not think that they should be included yet and opposed further changes until the British government had commented on the limited introduction of trial by jury.[142] In London, Field conceded the success of colonial manoeuvres to introduce jury trial and felt that it would not be long before Wentworth and Wardell won their fight to include emancipists, particularly since recent legislation had effectively restored former convicts to all their legal rights which Field believed must include jury service.[143]

139. Brisbane to Bathurst, 25 October 1825, with encls., HRA i,X1,892-897.
140. Stephen to Ovens, 3 October 1825, ibid., p.896; Parramatta Bench of Magistrates to Ovens, 10 October 1825, ibid., p.897; S.G., 25 August 1825. See also Chapter 7.
141. Brisbane to Bathurst, 25 October 1825, HRA i,X1,894.
142. Forbes to Wilmot-Horton, 6 February 1825, Catton Papers, Derby; Forbes to Wilmot-Horton, 24 March 1825, HRA iv,1,584-584.
143. Field to Marsden, 18 May 1825, Marsden Papers ML A1992. This view was shared by the executive council when they considered jury trial at the request of the Colonial Office. Bathurst to Darling, 12 December 1825, HRA i,X11,84; Darling to Bathurst, 2 September 1826, with encls., ibid., pp.519-522.

The emergence of a free and competitive press, trial by jury and the renewed debates on the participation of the emancipists gained new significance when news arrived in late April 1825 that Brisbane had been recalled.[144] The press urged that Brisbane's departure be used to demand constitutional reforms.[145] In August 1825, the Sydney Gazette foreshadowed a meeting of emancipists and emigrants to petition for a colonial house of representatives to replace the recent but inadequate legislative council.[146] The proposal claimed the support of Brisbane who

> felt, notwithstanding the addition to his peculiar weight of authority brought by the Council,... nothing but a legitimate deliberative Assembly can possibly deliver the Government from the shocks and intrusions of factious impertinence. [147]

The references to Brisbane's liberal sympathies which had started with the anniversary dinner earlier in the year multiplied in the final months of his government.[148] Brisbane did not contradict these claims. Many of his closest friends were liberals and Whigs, though Brisbane made few direct comments on his own political sympathies.[149] The governor was not the reforming liberal depicted in the colonial press but he did have a deep respect for the forms and institutions of his homeland. In accepting criticism of the dollar system, Brisbane had referred to the colonists' exercise of

> the inestimable privilege so dear to every British-born subject of preferring all topics of complaint before the legal Representative of their sovereign. [150]

144. Australian, 28 April 1825. See also Chapter 9.
145. Weekly Commercial Express, 18 July, 22, 29 August 1825.
146. S.G., 18, 25 August 1825.
147. S.G., 25 August 1825.
148. S.G., 28 April, 5 May 1825.
149. See Chapter 1.
150. Brisbane's reply to the dollar petition, 22 August 1822, Copies of Letters Sent and Received in the Colony 1821-1824, CS 4/5783, p.125 ff.

His toleration of the press and in particular his eager acceptance of the legislative council reflected the personal security Brisbane found in traditional constitutional forms. In reply to praise of his government, Brisbane explained his attitude:

> In furthering these Institutions my own acts have been merely ministerial...giving effect to what I apprehended to be the wise policy of His Majesty's Ministers to assimilate the Government of this Colony as nearly as circumstances will admit to that of the Parent State. 151

By early October 1825, it was known that Brisbane would leave during the following month and there were reports that the governor planned to enter parliament.[152] Brisbane was bitter about his recall which he believed had been influenced by deliberate misrepresentations and scandals. He felt that he had been badly treated by the Colonial Office and hoped that this would give him status among the Whig opposition in the House of Commons.[153] The possibility that Brisbane might become the colony's parliamentary advocate stimulated political activity in the final weeks of his administration.

Earlier in the year, the Australian had criticized the traditional "fawning, jargon-filled" addresses that were presented to departing officials by a handful of people on behalf of the entire colony.[154] "Obsequious trash" about a governor's private life was irrelevant in an assessment of his conduct as a public figure.[155] In early October 1825, the Sydney Gazette announced that the emancipists, "a wealthy,

151. Brisbane's reply to an address from the inhabitants of Sydney, 2 November 1825, Brisbane's Letter Book ML A1559/3.
152. S.G., 6 October 1825.
153. Brisbane to Bruce, 4 July, - September, 1 November 1825, Brisbane Papers ML UCMSS 329; Brisbane to Arthur, 1 September 1825, Arthur Papers ML A2166.
154. Australian, 20 January 1825.
155. Australian, 27 October 1825.

responsible and preponderating class", intended to address the governor; however, the eight colonists who approached the sheriff a few days later for a meeting to address the governor on his departure did not include any emancipists. The group were W.C.Wentworth, D'Arcy Wentworth, Gregory Blaxland and five leading merchants, Thomas Raine, Thomas Macvitie, Alexander Berry, W.J.Browne and A.B.Sparke.[156] In the week before the meeting the colonial press emphasized the importance of trial by jury, the rights of the emancipists and a house of assembly and urged all who were interested in colonial affairs to attend the meeting.[157]

Brisbane and Forbes were concerned by the deliberate references to colonial divisions during these weeks. Forbes thought that Brisbane would have been content with the traditional compliments to his personal character and such an address would have maintained an appearance of colonial unanimity. As governor, Brisbane had been remote from most settlers yet his recall aroused considerable public sympathy.[158] Brisbane, deeply offended by the circumstances of his recall, found the praise and support of the colonists a balm to his self-esteem.

Before the meeting took place, notices were published that the governor had agreed to attend a farewell dinner in his honour. Invitations would be distributed by an organizing committee but it was soon apparent that no invitations had been

156. S.G., 6, 13 October 1825; Australian, 13 October 1825.
157. S.G., 13, 17, 20 October 1825.
158. Forbes to Wilmot-Horton, 29 November 1825, Catton Papers, Derby.

sent to emancipists.[159] The farewell dinner had been planned for those who wished to avoid the meeting and address but, as Forbes cynically remarked, the

> neutral dinner would like most ill-judged palliatives, produce the very result that it had been calculated to prevent. [160]

The emancipists responded with their own farewell dinner. Brisbane had not been aware of any exclusion beyond the necessary standard of respectability when he accepted the initial invitation. Now that the dinner was revealed as limited to one sector of the community, he felt obliged to be fair and dine with the other groups also. Brisbane had no wish to mix socially with the emancipists and he had avoided social activities throughout his administration.[161] He dreaded the interpretation of his attendance at an emancipist dinner - a vain man courting popularity from a group anxious to sway him to their political views.[162]

Although he agreed to attend if the emancipists persisted, Brisbane sought a compromise. He suggested that the six stewards for the emancipist dinner should be invited to the first dinner, thereby removing the accusation of exclusiveness. In a move which shocked the colony, the organizers of the first dinner refused to invite "certain Individuals...whose presence had not been anticipated by the Subscribers" and abandoned the dinner.[163]

159. S.G., 17 October 1825; "An Emigrant", Australian, 20 October 1825.
160. Forbes to Wilmot-Horton, 29 November 1825, Catton Papers, Derby.
161. See Chapter 4.
162. Darling and Lang both interpreted Brisbane's behaviour in this way. Darling to Hay, 9 February 1827, HRA i,X111,97; J.D.Lang, An Historical and Statistical Account of New South Wales (2 Vols., London, 1837), Vol.1, pp.209-211.
163. Moore to Brisbane, 23 October 1825, Brisbane's Letter Book ML A1559/1; Forbes to Wilmot-Horton, 29 November 1825, Catton Papers, Derby; S.G., 17, 31 October 1825; Australian, 27 October 1825. The compromise of six stewards was initiated by the emancipists. S.G., 31 October 1825.

Few of those involved with the first dinner were named. John Macarthur and his friends planned it and W.H.Moore, the government solicitor, was secretary to the organizing committee.[164] The Sydney Gazette described the committee members as adventurers and identified them only by scathing pseudonyms as a staymaker (John Macarthur), a blacksmith (Samuel Marsden), a linen draper (William Lawson?), a bankrupt merchant (Robert Campbell?) and a clockmaker (William Cox?).[165] It was intimated that several of those involved were government officials. The merchants Berry and Wollstonecraft had agreed to attend but many, like Judge Stephen who was to be president of the dinner, were probably unaware of the degree of exclusion.[166] The six emancipists suggested as guests were probably William Redfern, Simeon Lord, William Hutchinson, Daniel Cooper, Robert Cooper and Solomon Levey, all successful and prominent figures.[167]

The public meeting was held in the midst of the controversy over the dinners. About 150 people squeezed into the small court house, the crowd a mixture of the "rabble" and more respectable settlers, including a number of officials who watched but took no part in the proceedings.[168] A traditional complimentary address was proposed by two free merchants, Alexander Berry and W.J.Browne, but this was rejected when

164. Moore to Brisbane, 23 October 1825, Brisbane's Letter Book ML A1559/1; Forbes to Wilmot-Horton, 29 November 1825, Catton Papers, Derby.
165. S.G., 27 October 1825. Identification of pseudonyms suggested by ADB, Vols. 1 and 2 and Scott to Norman, 31 January 1827, Norman Papers, Kent Archives Office, U310,C36.
166. S.G., 31 October 1825; Forbes to Wilmot-Horton, 29 November 1825, Catton Papers, Derby; Berry to Wollstonecraft, 12 October 1825, Berry Papers ML UCMSS 315/11.
167. S.G., 17 October 1825.
168. Scott to Bathurst, 5 November 1825, CO 201/168, ff.200-202; Names of Persons who voted the Address to the Governor, J.Macarthur jr to Wilmot-Horton, 11 July 1826, CO 201/179, f.232; Forbes to Wilmot-Horton, 29 November 1825, Catton Papers, Derby; S.G., 24 October 1825.

Wentworth presented a resumé of Brisbane's administration and suggested constitutional reforms.[169]

The exclusion of the emancipists from the dinner had provided Wentworth with an issue to arouse emotions which he could channel into support for wider constitutional reforms. He vehemently attacked those who had arranged the dinner. Calling them "yellow snakes" and a "secret junta", he blamed them for the recall of Brisbane and Goulburn. Wentworth, joined by Howe, overcame the objections of Wardell, E.S.Hall and Gregory Blaxland that there should be a separate political address to avoid embarassing Brisbane. Wentworth agreed that there should be further meetings nearer the expiry of the 1823 Act but

> it would ill become us to say nothing, knowing as everyone there did, that His Excellency was favourable to the changes in our political system, which we ourselves desired, and that he would forward them to the utmost of his ability. He cared not what reception the Governor might meet with at Downing Street. He dared say...that it would be scurvy enough - (hear, hear). But if it should be so that would be the very means of attaching him the more firmly to our cause: it would convert him from a luke warm messenger into a warm friend;...it would induce him in his seat in parliament the more warmly to espouse our cause. [170]

The meeting praised the clearing gangs and the tickets of occupation but the address itself only mentioned the improved system for tickets of leave and freedom of the press. Nor did it ignore the "partial disasters" arising from the dollar system which were only moderated by increased free migration. The address acknowledged the limited achievements

169. Australian, 27 October 1825.
170. Ibid.

of a brief though "a mild, an impartial and a firm Administration", an assessment with which most settlers concurred.[171] The farewell address urged the immediate establishment of the "two fundamental principles of the British Constitution, Trial by Jury, and Taxation by Representation". It demanded a local deliberative assembly of 100 members, elected by the settlers, and argued that such a body would reduce the financial burden on the British government. The members of the existing legislative council were too elevated in society to be aware of the practical details of colonial life. The address condemned settlers of rank and wealth with influence in Britain who opposed these reforms out of narrow self-interest and attacked Field, Bigge and the colonial agent, Barnard, for supporting their misrepresentations.[172]

Archdeacon Scott protested that Brisbane should not accept the address without deploring its scathing references to Bigge but the governor merely commented privately that he regretted the personal allusions.[173] In his reply, Brisbane admitted mistakes due to lack of experience and assistance. He felt that the colony was ready for constitutional reform and promised to support their efforts but he added a note of caution. The circumstances of the colony made genuine differences of opinion understandable and it was difficult for the Colonial Office to balance these views in the face of so much internal division and conflicting reports.[174]

171. Petition to Bathurst, December 1825, HRA iv,1,633. Mrs Brooks doubted that "firm" was a suitable comment. Mrs Brooks, Diary, 27 October 1825, NLA MS 1559/4.
172. Farewell Address to Brisbane, 26 October 1825, HRA iv,1,627-631. Compare S.G., 25 August 1825.
173. Scott to Bathurst, 5 November 1825, CO 201/168, ff.200-203.
174. Brisbane's reply to the Farewell Address, 26 October 1825, HRA iv,1, 631-633.

The farewell address was not signed[175] and only twenty-four of its supporters were identified. Eighteen were free settlers and three were born in the colony. Redfern, Daniel Cooper and Dr Parmeter were the only emancipists named though others were present. A meeting a few weeks later to present a welcome address to Darling expressing similar sentiments was called by seven emancipists and six free settlers. A list of sixteen colonists who opposed the farewell address included four of the eight settlers who had called the meeting. The others were prominent free merchants, settlers and magistrates.[176]

With the first dinner abandoned, attention now turned to the second dinner. Careful note was made of who accepted or abstained:

> Infinitely more is wrapped up in these affirmations and negatives than any person out of New South Wales can possibly divine.

They were the key to the "hidden and complicated machinery of the present politics of Sydney".[177]

The organizers dropped the references to an emancipist dinner and claimed that it would represent every political group in the colony. It was only in these circumstances that the governor would dine with the "Gentry, Merchants, Landholders and others".[178] The dinner, with the theme of the governor as an honest man, was held a fortnight after the farewell

175. There are no signed copies of the address. Compare Forbes to Wilmot-Horton, 29 November 1825, Catton Papers, Derby that many were deterred from signing because of its political content.
176. Names of Persons who Voted an Address to the Governor, in J.Macarthur jr to Wilmot-Horton, 11 July 1826, CO 201/179, f.232; Australian, 27 October, 29 December 1825.
177. S.G., 7 November 1825. Lang also believed that the dinner had a "most important bearing on the subsequent political state" of the colony. Lang, op.cit., Vol.1, p.212.
178. Australian, 3 November 1825.

meeting and over 100 settlers attended. Again Wentworth took the floor and launched a bitter attack against those who opposed his constitutional recommendations.[179]

Archdeacon Scott characterized those with whom the governor dined as pickpockets and criminals, the "veriest scum of the colony".[180] The governor attended because he was disappointed that the more respectable settlers would not give him an address or a dinner.[181] The Reverend J.D.Lang was also critical of the governor's dinner companions, whom he described as unreformed, immoral emancipists, the "veriest bloodsuckers" of the colony who had cheated and robbed the poorer emancipists.[182] John Macarthur's account of those who attended the dinner was more specific but similarly damning and Lang was torn between admiration and disgust at the "superlatively evil spirit" with which Macarthur described the diners.[183]

Macarthur identified fifty-one people, about half of those who attended the dinner. Seventeen were emancipists, mostly prominent in commercial affairs in Sydney, about half of whom had supported the 1819 petition; seven had been born in the colony with at least one parent a convict (including Wentworth); three were magistrates, D'Arcy Wentworth, Robert Lowe and William Lawson, whom Macarthur condemned for their intimacy with women who were convicts or related to convicts; the newspapers were represented by their editors, Howe and

179. Australian, 10 November 1825; S.G., 10 November 1825.
180. Scott to Norman, 28 February 1828, Norman Papers, Kent Archives Office, U310,C36.
181. Ibid.; C.Macarthur to King, 22 August 1826, King Papers ML A1976.
182. Lang, op.cit., Vol.1, pp.210-211. Lang was not in the colony at the time of the dinner.
183. Names of the Party who gave the Governor a Public Dinner, 7 November 1825, in J.Macarthur jr to Wilmot-Horton, 11 July 1826, CO 201/179, f.230 ff.; Lang, op.cit., Vol.1, p.213.

Wardell. The remaining twenty-two named by Macarthur were free settlers. Of these, seventeen had commercial interests in Sydney as shopkeepers or merchants and most were recent settlers. The remaining five were an attorney, two settlers, a government official and a Wesleyan missionary, William Walker.[184] Among the diners were twenty jurors, free settlers or colonial born, who had attended the dinner rather than the quarter sessions.[185] The unnamed diners were less well-known emancipists or free settlers, though it was unlikely that poorer settlers attended. The price of the tickets was higher than for the original dinner.[186] It was claimed that emancipists who had committed crimes in the colony were not admitted[187] but Macarthur's list included three who had been punished there.[188]

The official guests were the governor and his personal staff, the heads of several government departments and some senior military officers. Twenty-one senior officials were invited but about one-half did not attend, although only three formally declined. Archdeacon Scott, Deputy Commissary General Wemyss and the attorney-general, Bannister, declined because of personal and political objections to those who arranged the dinner. Chief Justice Forbes, Brisbane's closest adviser, would have attended but for ill-health, thereby discreetly avoiding personal involvement in either the controversial address or dinner.[189]

184. Names of the Party who gave the Governor a Public Dinner, 7 November 1825, in J.Macarthur jr to Wilmot-Horton, 11 July 1826, CO 201/179, f.230 ff.
185. Australian, 10 November 1825.
186. Tickets for the first dinner were $8 each compared to $10 for the second. Australian, 20 October, 3 November 1825.
187. Cunningham, op.cit., pp.250-251.
188. Rose, Hutchinson and Underwood. J.Macarthur jr to Wilmot-Horton, 11 July 1826, encl., CO 201/179, f.230.
189. Ibid.; Australian, 3, 10 November 1825; S.G., 3, 7, 10 November 1825.

The assumption that the farewell dinner was a gathering of the "convict party"[190] overlooked the significance of the absentees. Though most of the 1821 emancipist committee attended, Macarthur's list did not mention Samuel Terry, whom Bigge had described as a leader, F.E.Forbes, who had been prominent at the welcome meeting for Brisbane, Laurence Halloran, whom Field had considered as a potential leader, or the Reverend Henry Fulton, the only emancipist magistrate, though his son attended. Other prominent emancipists who were missing were Francis Greenway, Henry Marr and James Hankinson who were involved in the legal battle to be included in the jury lists. F.E.Forbes was in the midst of a legal dispute with Redfern, Eagar, Hall and Hutchinson and Wentworth was their legal representative.[191] Halloran had quarrelled with Wentworth and Solomon Levey, as had Forbes.[192] Terry was a friend of Forbes and Halloran[193] so the absence of these three may have been due to personal rather than political reasons since their antagonists attended the dinner.

Nevertheless, the farewell dinner showed the support of the prominent emancipists for Wentworth. Eagar, their most coherent advocate, had not returned from Britain and Redfern was little more than a figure head. Wentworth's dominance was a personal triumph. His position was largely self-proclaimed but it emphasized the lack of alternative leaders among either

190. Melbourne, Wentworth, pp.46-47.
191. Wentworth to Forbes, 2, 14 June 1825, Wentworth's Legal Letter Book ML A1440.
192. Halloran's views on Levey, - August 1824, Halloran Papers, Dixson Library MSQ 398, p.21; Wentworth to Halloran, 8 June 1825, Wentworth's Legal Letter Book ML A1440; S.G., 30 October 1823.
193. Dow, op.cit., p.155,208. Terry did join Wentworth and the other emancipist diners in the welcome address for Darling a few weeks later. Australian, 29 December 1825.

the emancipists or those interested in constitutional reform. Brisbane's farewell was deliberately engineered by Wentworth to give maximum impact to his constitutional demands. He seized an occasion which could not fail but attract the attention of the British government. Brisbane's personal sympathy for many of his suggestions made Wentworth's task easier but he would not have been deterred if the governor had been less responsive.

The controversial public farewells for Brisbane resulted in several smaller groups presenting their own tributes to the governor, either by address or dinner. Brisbane, to his delight, was inundated with addresses.[194] Forbes had discouraged the officials from participating in the farewell activities so they presented their own address with a request for a portrait of the governor. This provided a "polite excuse" for avoiding the public celebrations.[195] The Turf Club and the Agricultural Society presented complimentary addresses to their patron, the governor.[196] The Masonic Lodges, specifically dissociating themselves from any references to political matters, offered their compliments as did the Wesleyan missionaries.[197] The inhabitants of Sydney and Parramatta presented separate addresses, the latter lamenting that the excessive discord in their town had embarrassed the governor.[198]

The most significant of these alternatives was a petition

194. Brisbane to Bruce, 1 November 1825, Brisbane Papers ML UCMSS 329; Australian, 10 November 1825.
195. S.G., 3 November 1825; Forbes to Wilmot-Horton, 29 November 1825, Catton Papers, Derby.
196. S.G., 3, 14, 17 November 1825.
197. S.G., 3, 10 November 1825. Most of these addresses, with Brisbane's replies, are among the Brisbane Papers ML FM4/1626, Section 2.
198. S.G., 21 November 1825; Brisbane's reply to the Deputation of the Inhabitants of Sydney, 2 November 1825, Brisbane's Letter Book ML A1559/3; Brisbane's reply to the Parramatta address, 18 November 1825, ibid.

addressed to the British government and forwarded by John Macarthur in December 1825.[199] Although approving of the mildness of Brisbane's government, this petition "entirely and unequivocally" rejected the farewell address which had been presented as the united view of the colonists. It condemned the inflammatory role of the colonial press which excited

> a spirit of animosity towards the Upper Classes and contempt of all legitimate authority

though it supported a "well regulated and really independent press". The petition suggested some constitutional reforms which would provide adequate representative government for the colony. These were an executive council of government officials, a legislative council extended to fifteen members, nominated by the British government from among the respectable landholders and merchants, and the extension of trial by jury to the supreme court with jurors selected on the same principles as in England.[200]

The petition reflected the extent to which political and constitutional ideas had been accepted since the 1819 petition. Trial by jury was not only accepted by those who had formerly rejected it but its extension was encouraged. The influence of the press was acknowledged. Changes to the legislative council indicated that even among the more conservative settlers there was an increasing interest in political participation. An executive council had already been appointed

199. J.Macarthur jr to Wilmot-Horton, 11 July 1826, encl., CO 201/179, f.220 ff.
200. Petition to Bathurst, - 1825, HRA iv,1,633-635; Melbourne, Constitutional Development, p.131.

and the legislative council enlarged to seven, including three nominated colonists.[201]

Macarthur's petition was signed by fifty-nine landed proprietors, merchants and free inhabitants. The colonial press condemned it as an attempt by the older settlers to keep the colony tied to the restrictions of the past.[202] All who signed had arrived as free settlers or officials but their colonial experience and economic status varied. Most of the smaller settlers lived near Macarthur's Camden estate, such as the de Kerilleaus, George Barber, de Arrietta, Charles Rumker and William Elyard, the last two having arrived in 1821. Over two-thirds had come to the colony in the previous ten years and the older settlers and their families, such as Macarthur and his sons, Oxley, Throsby, Cordeaux, Cox and Bell were a minority. Nineteen were magistrates. Eleven had signed the 1819 petition. Rural interests predominated. The large merchants Richard Jones, Browne and Aspinall, Berry and Wollstonecraft and William Walker signed the petition but these men had increasingly heavy commitments in pastoral activities as graziers, importers of improved stock and major agents for exporting wool.[203] By comparison, those who attended the farewell dinner included a high proportion of shopkeepers and import merchants, both free and emancipist, men whose interests were predominantly in Sydney rather than the countryside.

Although Macarthur's petition was signed by only

201. Ward, Colonial Self-Government, pp.140-141.
202. S.G., 7, 10, 17, 28 November, 1 December 1825.
203. Petition to Bathurst, - 1825, in J.Macarthur jr to Wilmot-Horton, 11 July 1826, CO 201/179, f.220 ff.; See also Chapter 6.

fifty-nine settlers, many other moderate colonists were perturbed by the demands of Wentworth and the press for a colonial house of assembly. These settlers were conscientiously uncertain that the colony was ready for such a step. Even the Sydney Gazette recognized that there would have been greater opposition to Wentworth's address if there was any possibility of its demands coming immediately to the attention of parliament.[204]

A colonial legislature which included former convicts raised the same fears that had been apparent in earlier discussions about trial by jury. In 1820, Field had predicted that demands for trial by jury would be followed by demands for a legislative assembly and the colony would be destroyed for respectable settlers, a view which John Macarthur supported.[205] Peter Cunningham, who signed Macarthur's petition, echoed these fears. A house of assembly would create dissension because elections would revive the divisions between emigrant and emancipist. Cunningham feared that the interests of the free emigrants, who were a minority, would be threatened once the emancipists had legislative powers. He favoured some modification to the existing system by enlarging the legislative council and opening its discussions to public comment.[206]

Macarthur's influence as a political leader was limited by his stormy relations with many of the older colonists. Though his re-entry into public affairs was endorsed by

204. S.G., 27 October 1825.
205. Field to Bigge, 23 October 1820, HRA iv,1,869; J.Macarthur to J.Macarthur jr, 20 February 1820, in Onslow, op.cit., p.337.
206. Cunningham, op.cit., p.246,248-250.

fifty-nine respected settlers, it is doubtful if they would have acknowledged his leadership in a more general sense. Nevertheless, their signatures on his petition indicated a new sense of unity among the free settlers. The emigrants, whether established settlers or more recent ones, had rarely combined to express a common view except on economic issues,[207] preferring to complain privately to the colonial or British governments. This individualism was buttressed by intense personal feuds such as the long quarrel between Macarthur and Marsden. In a community where their families were isolated examples of personal morality and material success, their continued animosity was a grave hindrance to any unity among the free settlers. In August 1825, Archdeacon Scott achieved a reconciliation between these two patriarchs, though neither Marsden nor the other dismissed magistrates signed Macarthur's petition.[208] This reconciliation merged opposition to the emancipist and constitutional causes with the attacks on H.G. Douglass.

The Douglass intrigues had involved only a handful of free settlers but from mid-1825 the colonial inquiry, the Parramatta jury presentment and the indemnity act were widely discussed in the press.[209] Wardell, the co-editor of the Australian, was retained by Hannibal Macarthur and the Parramatta jurors to defend them against Douglass's charge of libel. Amid allegations that Wardell had betrayed the

207. e.g. the 1819 petition, the dollar petition in 1822 and the wool and timber duty petitions in 1822 and 1824. HRA i,X,55-65,738-744,782-783; HRA i,X1,204-206.
208. A.T.Yarwood, Samuel Marsden. The Great Survivor (Melbourne, 1977), pp.52-53; S.G., 18 August 1825; Brisbane to Bathurst, 28 September 1825, HRA i,X1,851; C.Macarthur to King, 22 August 1826, King Papers ML A1976.
209. See Chapter 7.

emancipists and the Australian had lost its independence, Wentworth withdrew as co-editor of the Australian.[210]

A major influence in identifying the attacks on Douglass with opposition to constitutional reform was a series of letters published in the Sydney Gazette under the nom-de-plume of "Philo Umbrae" between August and October 1825.[211] These letters started as a defence of Douglass and Brisbane's administration. Hannibal Macarthur and Marsden were scathingly criticized for their misrepresentations. Using the abuse of trial by jury by the Parramatta grand jury, "Philo Umbrae" linked the persecution of Douglass with the exclusion of the emancipists from the jury box. He stressed the continuity of attitudes to convicts and emancipists by those who considered that any improvement in their convicts' conditions was "an act of injustice to the free population". The benevolence of Macquarie and Brisbane had aroused the opposition of these settlers.[212]

"Philo Umbrae" was the young Wesleyan missionary William Walker.[213] Walker had arrived in September 1821 to establish a mission to the Aborigines and soon clashed with Marsden.[214] Walker's preference for field preaching with its closer contact with the poorer settlers offended the established clergy.[215] The young missionary was an ardent admirer of

210. S.G., 8 September, 10 October 1825; Forbes to Wilmot-Horton, 30 October 1825, HRA i,X1,955; Brisbane to Arthur, 1 September 1825, Arthur Papers ML A2166.
211. S.G., 4, 18, 25 August, 1, 8, 15, 29 September, 10, 20 October 1825.
212. S.G., 20 October 1825.
213. Threlkeld to Wesleyan Secretary, 10 October 1825, ML BT Box 53, p.1539; Walker to Wesleyan Committee, 1 February 1826, ibid., pp.1600-1601; Scott to Bathurst, 16 January 1826, CO 201/179, f.405; J.Macarthur jr to Wilmot-Horton, 11 July 1826, encl., ibid., f.230.
214. Walker to Watson, 9 January 1823, ML BT Box 52, p.1072; Lawry to Wesleyan Committee, 20 November 1823, ibid., p.1330; J.D.Bollen, "English Missionary Societies and the Australian Aborigine", Journal of Religious History, 9 (1977), pp.275-276.
215. Scott to the Bishop of London, (January 1826?), ML BT Box 53, p.1775. See also Yarwood, op.cit., pp.206-207,227.

Brisbane and Goulburn[216] and his Wesleyan colleagues and the Anglican clergy accused him of abandoning his mission to defend Douglass and Brisbane.[217] Brisbane appreciated "Philo Umbrae's" support though he claimed that he did not know who was responsible.[218]

Douglass was denounced for encouraging Brisbane to accept the farewell address and dinner[219] but Douglass's association with Wentworth, the emancipists and constitutional reform was not clear. Wentworth was his solicitor for his defence against the Parramatta jury presentment.[220] Douglass attended the farewell dinner as an official guest but he did not speak at the farewell meeting.[221] His identification with the emancipists and constitutional reform was alleged during elections for directors of the Bank of New South Wales in December 1825. There were five candidates for the two positions and Douglass and the merchant R.C.Pritchett were elected by a large margin when they were identified as sympathetic to the farewell address.[222] Pritchett had arrived

216. Walker to Watson, 29 November 1821, ML BT Box 52, p.1044; Walker to Watson, 7 February 1825, ML BT Box 53, p.1471.
217. Erskine to Cowper, 18 November 1825, ML BT Box 53, p.1581; Scott to the Bishop of London, (January 1826?), ibid., pp.1574-1578; Walker to Wesleyan Committee, 1 February 1826, ibid., pp.1599-1600.
218. Brisbane to Bruce, - September 1825, Brisbane Papers ML UCMSS 329.
219. Scott to Wilmot-Horton, 6 December 1825, CO 201/168, ff.268-269; C.Macarthur to King, 22 August 1826, King Papers ML A1976. Compare C.M.H. Clark, A History of Australia (Melbourne, 1968), Vol.2, p.25 that the earlier Douglass controversies were caused by Douglass "openly fraternizing with the convict party".
220. Wentworth to Bannister, 7 September 1825, Wentworth's Legal Letter Book ML A1440.
221. J.Macarthur jr to Wilmot-Horton, 11 July 1826, encls., CO 201/179, f.230,232. Douglass did not indicate particular familiarity with Wentworth when the latter approached him for a loan to purchase Petersham in 1826. Douglass to F.Goulburn, 8 May 1826, Goulburn Papers, Surrey Record Office Acc.319, Box B11/9/E, No.61. Nor did Douglass approve of Wentworth's handling of the affairs of the Bank of New South Wales. Douglass to F. Goulburn, 29 May 1826, ibid., No.62. In the following year, Douglass's open support of Wentworth caused conflict with Darling. Darling to Goderich, 15 January 1828, with encls., HRA i,X111,706-710.
222. S.G., 5 December 1825; Australian, 8 December 1825.

in 1822 with £2,500 which he invested in commerce and shipping. At the public meeting, he announced that his prejudices against convicts and New South Wales had disappeared.[223]

Wentworth bitterly attacked another candidate at the bank elections, W.J.Browne, for signing Macarthur's petition.[224] Browne, a partner in the mercantile firm of Aspinall Browne and Company had been an unequivocal personal supporter of Brisbane's government both in the colony and in Britain.[225] He had been one of the applicants for the meeting to address the governor and was nominated to present the farewell address. By not doing so and in signing the alternative petition, Browne was condemned for trading with the emancipists without admitting their status as equals.[226]

One of the most important absentees from the activities at the close of 1825 was Sir John Jamison, chairman of the 1819 meeting. He supported trial by jury and favoured a nominated legislative council. His reputation had been seriously damaged in the recent Emu Plains scandal and this was probably the reason for his absence from discussions in which he could have been an alternative leader to either Wentworth or Macarthur. Later, in 1827 and 1828, he supported Wentworth.[227]

There was a significant lack of participation by the other free settlers who had taken an active role in 1819. Of the thirteen members of the 1819 committee, only three were involved in 1825 and they supported Wentworth. Two were

223. R.Pritchett, Memorial, 30 August 1823, CSIL Memorials re:Land 4/1835A; Weekly Commercial Express, 16 May 1825; S.G., 5 November 1825.
224. S.G., 5 December 1825; Australian, 8 December 1825.
225. Brisbane to Wilmot-Horton, 1 July 1824, HRA i,X1,302; Browne to Wilmot-Horton, 7 January 1825, CO 201/166, f.16.
226. "Argus", S.G., 31 October 1825; Australian, 8 December 1825.
227. See Chapter 7. Fletcher, "Jamison", pp.13-18.

emancipists, Redfern and Lord, and the other a free settler, E.S.Hall. Death and absence from the colony had removed two but the remaining eight abstained from both Wentworth's address and dinner and Macarthur's counter petition.[228]

William Cox probably typified the political dilemma of many colonists. In 1819 Cox had supported trial by jury despite his awareness of the problems of selecting jurymen. In 1825 he signed Macarthur's petition for moderate reform rather than supporting Wentworth's more radical suggestions. Two years later Cox publicly supported Wentworth's reforms.[229] Others, such as the magistrates J.T.Campbell and J.MacHenry opposed Wentworth's address but did not sign Macarthur's alternative proposal.[230]

Unlike 1819, there was no attempt to involve settlers outside Sydney and Parramatta in the constitutional discussions. Although most recent emigrant settlers did not live near Sydney, a number took part in the farewell activities. As a group, the new settlers had neither status nor experience to provide leadership but their numbers had increased during Brisbane's government and several were prominent in commercial affairs. The organization of the first farewell dinner by invitation only had excluded many respectable and successful new arrivals.[231] The recent emigrants were considered to be men of moderate principles, without the prejudices of the older settlers, and it was assumed that they would co-operate

228. Jenkins had died; Eagar was in Britain. The others were J.Harris, G.Blaxland, W.Cox, R.Brooks, F.Garling, R.Townson, W.Brown and Jamison. S.G., 23 January 1819.
229. J.Macarthur jr to Wilmot-Horton, 11 July 1826, encls., CO 201/179, f.220,230,232; S.G., 23 January 1827.
230. J.Macarthur jr to Wilmot-Horton, 11 July 1826, encls., CO 201/179, f.220,230,232.
231. S.G., 17 October 1825.

with the emancipists and support some reforms.[232] The division of the recent settlers between Wentworth's address and dinner and Macarthur's petition indicated that those who had turned to rural concerns, such as Robert Scott, had quickly adopted the attitudes of the established free settlers while those who had chosen commercial activities in Sydney, such as Pritchett, were more interested in reforms such as Wentworth proposed.[233]

Wentworth had deliberately antagonized colonial social divisions to stimulate political activity. This was contrary to the tradition which had ignored division between free and freed in matters of general interest.[234] Colonists as diverse as William Cox, Judge Field and eventually Edward Eagar believed that emphasis on the colony's divisions would only hinder constitutional reform.[235] Wentworth's activities identified the cause of the emancipists with constitutional reform but some emancipists disapproved of this. A proposal for an Emancipist or Retaliation Club threatened to separate the emancipists and the Australian warned that they must be an integral part of a colonial reform movement if they wished to achieve equal rights.[236] "An Emigrant" responded that most emancipists did not want to associate with emigrants. They were content within their family circles and were not dependent on the support of any newspaper to achieve their rights as colonists.[237]

232. Australian, 17 November 1825.
233. e.g. Reid, Futter, Balcombe jr, Lethbridge, Cory, Elyard and Scott signed Macarthur's petition while Robertson, Levey, Pritchett, Hindson and Rapsey attended the dinner.
234. e.g. the 1819 petition and the dollar petition.
235. Cox to Jamison, 15 February 1819, ML BT Box 18, p.2458; Field to Bigge, 23 October 1820, HRA iv,1,868-869; Monitor, 3 January 1829.
236. S.G., 7 November 1825; Australian, 17 November 1825.
237. "An Emigrant", S.G., 21 November 1825.

Several observers believed that the divisions of October and November 1825 were exaggeraged by the newspapers to increase Wentworth's influence.[238] The rhetoric obscured the comparatively small number of colonists who took part in these activities. The petitions of 1819 and 1821 had canvassed widespread support and had each been signed by more than 1,000 colonists. By comparison, only 150 settlers attended the farewell meeting, 100 were at the dinner and only fifty-nine signed Macarthur's petition.

Despite the lack of general involvement, these activities had an enduring impact on colonial politics. The new governor considered that

> the recent occurrences have produced so total a change in the Political situation and Character of the colony

that past assessments were invalid.[239] Darling believed that the emancipists, rather than the constitutional reformers, had seized the political advantage of dining publicly with the governor.[240]

It was this identification of the emancipists with the constitutional reformers which remained an uncertain legacy, for both groups, throughout the convict period. In the 1830s, Forbes insisted that there was no "emancipist party", only a group of liberals accidentally allied with some emancipists and opposed by conservatives.[241] The alliance was not accidental. It had been contrived by Wentworth to channel

238. H.Dumaresq to Mrs Dumaresq, 25 November 1825, 5 February 1826, H.Dumaresq Letters ML A2571; Darling to Hay, 1 February 1826, CO 323/146, ff.134-135; Cunningham, op.cit., p.249.
239. Darling to Hay, 10 December 1825, HRA i,X11,82-83; Lang, op.cit., Vol.1, p.212.
240. Darling to Hay, 10 December 1825, HRA i,X11,82-83.
241. Currey, op.cit., pp.403-404.

the only active political awareness in the colony, the emancipists' concern about their civil status, into support for his constitutional ambitions. Whether the interests of either the emancipists, those advocating a more liberal constitution or Wentworth's own political ambitions were compatible was a dilemma which complicated colonial politics for the next two decades.

Chapter 9 - Recall and Retirement. Assessment of a Governor.

Sir Thomas Brisbane and his family left Sydney aboard the Mary Hope on 1 December 1825, exactly four years after he had taken office.[1] Brisbane was ill and depressed before they sailed.[2] Lady Brisbane was seasick throughout the voyage and their second son, born at sea, died before they reached Britain.[3] These illnesses and the deaths of Brisbane's mother and Lady Brisbane's father during their absence delayed Brisbane in Scotland before he reported in person at the Colonial Office.[4]

Humiliated by the implied failure of his government and angry with the Colonial Office for so readily accepting the attacks on his administration, Brisbane's meeting with Bathurst was stormy and bitter.[5] Forbes had warned Wilmot-Horton of Brisbane's resentment and had urged that retiring governors receive a conciliatory welcome at the Colonial Office.[6] Bathurst failed to reassure Brisbane that he had not been influenced by the allegations in the London press nor would he comment on Brisbane's "general Good Government" or his policies.[7]

At the Horse Guards, Brisbane received a more sympathetic hearing from General Sir Herbert Taylor, who assured him that Bathurst had been preoccupied rather than disapproving:

1. S.G., 1 December 1825.
2. He feared that he might die before he could retrieve his reputation. Brisbane to Bruce, 1 November 1825, Brisbane Papers ML UCMSS 329; Makdougall to Blaxland, - December 1829, Blaxland Papers ML A1322.
3. Makdougall to Blaxland, - December 1829, Blaxland Papers ML A1322; (W.Tasker, ed.), Reminiscences of General Sir Thomas Makdougall Brisbane (Edinburgh, 1860), p.39.
4. Brisbane to Bathurst, 30 June 1826, CO 201/178, f.88. Mrs Brisbane had died in 1823. Brisbane to Bruce, 18 October 1823, Brisbane Papers ML UCMSS 329; Sir Henry Hay Makdougall died in 1825. S.G., 22 September 1825.
5. Brisbane to Bruce, - September 1825, Brisbane Papers ML UCMSS 329; J.Macarthur jr to J.Macarthur, 18 July 1826, Macarthur Papers ML A2911.
6. Forbes to Wilmot-Horton, 29 November 1825, Catton Papers, Derby.
7. Brisbane to Bathurst, n.d.(1-4 July 1826?), Brisbane Papers ML FM4/1626, Section 1.

> Sir Thomas Brisbane is a well-intentioned, honourable Man and his character is that of an excellent hearted and good tempered Man. His Manner is somewhat brusque but Allowances must be made...from the circumstances under which he has returned... which render Him very much alive to all that is said or done. I received Him cordially as an old brother soldier and he seemed quite affected by it. 8

Robert Hay, the colonial under-secretary responsible for New South Wales, was relieved that Taylor had calmed Brisbane's "ruffled plumes".[9] The immediate outcome was a letter from the Colonial Office to the Horse Guards which absolved Brisbane from any personal censure in his recall. The Colonial Office hoped that the Horse Guards would close the incident by rewarding Brisbane for his long service.[10]

Brisbane was not satisfied. He wanted a personal letter from the Colonial Office approving his administration[11] but Bathurst declined to comment further.[12] Hay, officials at the Horse Guards and Brisbane's aide, Stirling, sought a compromise[13] but Bathurst's attention was drawn to Brisbane's reply to the farewell address.[14]

> I most entirely acquit him of any intention to embarrass the King's government by that answer, but I most deeply regret his indiscretion in encouraging by the right of his sanction without any authority whatever from home two questions of so doubtful policy as trial by jury and a legislative assembly....anyone...would have hesitated before he gave an opinion which in his situation he was not called upon to pronounce and which if it differed from that of his Government at home; he must have known would be quoted against it. 15

8. Taylor to Hay, 6 July 1826, CO 323/146, ff.324-326.
9. Hay to Taylor, 6 July 1826, CO 324/85, f.52.
10. Brisbane to Bathurst, 11 July 1826, with CO minute, CO 201/178, f.98.
11. Ibid.
12. Bathurst to Hay, 2 August 1826, Bathurst Papers BM Loan 57/58, p.112.
13. Stirling to Hay, 29 July 1826, CO 201/179, f.377; Bathurst to Hay, 30 July 1826, Bathurst Papers BM Loan 57/58, p.106; Macdonald to Hay, 31 July 1826, CO 201/179, f.154.
14. Bathurst to Hay, 12 July 1826, Bathurst Papers BM Loan 57/58, p.102.
15. Bathurst to Hay, 2 August 1826, ibid., p.112.

Bathurst refused to discuss the matter beyond his statement to the Horse Guards that Brisbane had not been recalled for misconduct and a general comment that the accusations against his government were gross exaggerations.[16]

When recalling Brisbane and Goulburn, Bathurst had ordered that the despatches be neither too complimentary nor too severe. The result was "unmeaning enough" but gave no reason for the change of government.[17] After the prolonged attacks in the Morning Chronicle, their removal implied that the Colonial Office had been influenced by these allegations[18] and Brisbane was deeply offended that Bathurst had not waited for his explanations.[19] Bathurst admitted some guilt in not fulfilling his earlier promise to defend Brisbane's reputation[20] but he insisted that if he had believed the accusations he would have allowed Brisbane and Goulburn to defend themselves.[21] Publicly, the belief persisted that the Colonial Office had listened too readily to the governor's opponents.[22]

The most enduring speculation was that the governor was recalled because of his "attachment to other pursuits", in particular his astronomy.[23] Brisbane's friends considered these rumours were an excuse not to discuss his recall,

16. Stirling to Hay, 29 July 1826, CO 201/179, f.377; Stirling to Wentworth, 3 August 1826, Wentworth Papers ML A757.
17. Bathurst to Wilmot-Horton, 20, 26 December 1824, Bathurst Papers ML A73; Bathurst to Brisbane, 28 December 1824, HRA i,XI,429.
18. Forbes to Wilmot-Horton, 29 June, 29 November 1825, Catton Papers, Derby; Brisbane to Bruce, - September 1825, Brisbane Papers ML UCMSS 329.
19. Brisbane to (Craufurd?), 13 May 1825, Brisbane Papers ML FM4/1626, Section 1.
20. Bathurst to Brisbane, 23 August 1824, Bathurst Papers BM Loan 57/64, pp.22-35; Bathurst to Wilmot-Horton, 26 December 1824, Bathurst Papers A73.
21. CO Minute, 26 July 1826, CO 201/178, f.632.
22. "Philo Umbrae", S.G., 29 September 1825; H.Dumaresq to Mrs Dumaresq, 25 November 1825, H.Dumaresq Letters ML A2571.
23. H.Goulburn to Wilmot-Horton, 20 November 1824, Catton Papers, Derby; Stephen to Arthur, 31 July 1824, Arthur Papers ML A2164; C.M.H.Clark, A History of Australia (Melbourne, 1968), Vol.2, pp.57-58.

especially since his attachment to astronomy was known when he was appointed.[24]

Brisbane wanted to observe as many stars as possible from the latitude of the Parramatta observatory to the south pole for a catalogue of the southern skies.[25] He employed Carl Ludwig Rumker, a German astronomer, and James Dunlop, a young Scot who made optical equipment, to accompany him to the colony and assist in his new observatory.[26] James Robertson, a clockmaker with Grimaldi and Johnson who had made some of Brisbane's instruments, also went to New South Wales.[27]

The eager astronomers started their observations at Parramatta before the building was completed in April 1822 but Brisbane soon discovered that his time was "too much at the disposal of others". Rumker and Dunlop did most of the regular work with the governor joining them in the evening.[28] The most important discovery, the return of Enke's comet in June 1822, was observed by Rumker with Dunlop's assistance.[29]

24. Higman to Brisbane, 27 January 1823, Brisbane Papers, Scott Collection, Compartment 2, Bundle 6; (Craufurd?) to Brisbane, 3 January 1825, Brisbane Papers ML FM4/1626, Section 11; Mrs Brooks, Diary, 13 October 1825, NLA MS 1559/4.
25. Brisbane to (Davy?), 11 June 1824, Royal Society, London, Unpublished Archives AP 11/5E.
26. Brisbane to (?), 4 April 1821 (in French), Brisbane/Arago Correspondence, La Bibliotheque de l'Institut de France, Academie des Sciences, Paris; Brisbane to Bruce, 18 March 1822, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Davy, 18 April 1823, Royal Society, London, Unpublished Archives AP 11/5D; G.Bergman, "Christian Carl Ludwig Rumker (1788-1862), Australia's First Government Astronomer", JRAHS, 46 (1960), pp.247-289; J.Service, Thir Notandums,...to which is appended a biographical sketch of James Dunlop, Esq (Edinburgh, 1890), pp.134-219; A.M.Moyal, Scientists in Nineteenth Century Australia: A Documentary History (Melbourne, 1976), pp.29-36.
27. S.G., 24 November 1821; Grimaldi and Johnson to Wilmot-Horton, 28 August 1822, CO 201/111, f.337; Boyes to Mrs Boyes, 12 April 1824, Letters of G.Boyes (typescript copies), ML Q991.1/B.
28. Brisbane to Bruce, 18 March 1822, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Craufurd, 18 May 1822, Brisbane Papers PRO PMG1/1; Brisbane to Davy, 18 January 1823, Royal Society, London, Unpublished Archives AP 11/5B; V.Goodin, "Parramatta Observatory - The Story of an Absurdity", JRAHS, 33 (1947), p.175.
29. J.Herschel, Outlines of Astronomy (London, 1871), p.387; G.Chambers, Descriptive Astronomy (Oxford, 1867), p.272; S.G., 16 September 1824; Bergman, op.cit., p.252.

Brisbane's main personal contributions were the summer and winter solstices in June and December each year, a transit of Mercury in November 1822, observations of Venus in October 1823 and work on the polar distances of fixed stars during the summer of 1823 and 1824 for Professor John Brinkley at the University of Dublin.[30] Brisbane took most of the readings on the transit instrument but had recorded only 3,000 stars by July 1824 compared with 9,000 readings by Dunlop using the mural circle.[31] The number of daily transit readings was erratic but there was only one large gap, in November 1824, which corresponded to Brisbane's absence at Moreton Bay. From early 1825, Dunlop took over the transit records.[32] In fact, the work of the observatory fell

30. Brisbane to (?), 13 December 1822, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Davy, 18 January 1823, Royal Society, London, Unpublished Archives AP 11/5B; Brisbane to R.Barnard, 24 February 1823, ML DOC 834; T.Brisbane, "Observations on the solstice of June 1823 made at Parramatta, New South Wales", Memoirs of the Astronomical Society of London, 2 (1826), pp.63-64; T.Brisbane, "Observations made in the years 1823-1824 at Parramatta, New South Wales", ibid., pp.65-83; T.Brisbane and C.Rumker, "Observations made at Parramatta, New South Wales to which are annexed observations made at Stargard, New South Wales on the comet which appeared in July 1824", ibid., pp.277-284; J.Brinkley, "The results of computations on Astronomical Observations made at Parramatta, New South Wales, under the direction of Sir Thomas Brisbane, K.C.B.; and the application thereof to investigate the exactness of Observations made in the Northern Hemisphere", ibid., pp.105-123; T.Brisbane and C.Rumker, "Observations on the winter solstice of 1823 at Parramatta", Edinburgh Journal of Science, 1 (1824), pp.39-40; T.Brisbane, "Observations made at Parramatta on the inferior contigency of Venus with the sun in October 1823", ibid., pp.236-239; T.Brisbane, "Astronomical Observations made at Parramatta in 1823", Edinburgh Philosophical Journal, 10 (1824), pp.244-246; T.Brisbane and C.Rumker, "Astronomical Observations made at Parramatta and Sydney, 1823", Transactions of the Edinburgh Royal Society, 10 (1826), pp.112-116; T.Brisbane, "Observations before and after the superior conjunction of Venus with the sun with the mural circle at Parramatta 1824", ibid., pp.330-331. I would like to thank Mr L.W.Chad for drawing my attention to the relevance of Brisbane's work for Professor Brinkley.

31. Brisbane to Cowper, 3 July 1824, Brisbane Papers ML FM4/1626, Section 1; W.Richardson, A Catalogue of 7,385 stars, chiefly in the southern hemisphere prepared from observations made in the years 1822,1823,1824,1825 and 1826 at the observatory at Parramatta, New South Wales, founded by Lieutenant General Sir Thomas Makdougall Brisbane (London, 1835), p.1.

32. Brisbane to (?), 6 February 1825, Royal Society, London, Unpublished Archives AP 11/5H; Observed Transits of the Fixed Stars and the Planets over the Meridian, June 1823 to January 1825, Records of the Parramatta Observatory, ibid., MS 110.

increasingly to Dunlop, the least experienced of the three, after Rumker and Brisbane quarrelled during their observation of the winter solstice in June 1823. Rumker retired to farm his land grant and his absence was a serious loss since he did the mathematical reductions of the observations.[33]

The Parramatta observations were submitted to the Royal Society in London and Brisbane received its Gold Medal in 1828 for this work. The observations were reduced and published jointly by the Royal Society and the Board of Longitude in 1835. The final catalogue of 7,385 stars from 40,000 observations was an exploratory survey rather than a detailed and careful study, a natural inclination for quantity rather than quality in the uncharted southern skies.[34] The Parramatta observations established Brisbane's scientific reputation but his most valuable work was some years later at his magnetic observatory at Makerstoun in Scotland, for which he received the Keith Medal of the Royal Society of Edinburgh in 1848.[35]

One of Brisbane's ambitions had been to measure an arc of the meridian. This was supported by the Royal Society and the Board of Longitude and the Colonial Office approved the project in 1823. Rumker agreed to assist but ill-health,

33. Boyes to Mrs Boyes, 12 April 1824, Letters of G.Boyes (typescript copies) ML Q991.1/B; Brisbane to Kater, 6 November 1824, Royal Society, London, Unpublished Archives AP 11/5F; Brisbane to Bathurst, 15 November 1823, HRA i,X1,154.
34. Richardson, op.cit., pp.iii-xi; J.E.Vos Van Steenwijk, Catalogue of the Declinations of Southern Stars mostly between -30° and the South Pole Observed with the mural circle at Parramatta, New South Wales by James Dunlop and Charles Rumker in the years 1823-1828 (Kiel, 1923), pp.1-7.
35. Forbes to Tasker, 1 December 1859, J.Forbes Papers, University of St Andrews Library, St Andrews LB V1/144; A.Bryson, "Memorial of General Sir Thomas Makdougall Brisbane", Transactions of the Edinburgh Royal Society, 22 (1861), p.604; "T.Brisbane", DNB.

Brisbane's preoccupation with official duties and his recall ended the project.[36] Brisbane also conducted experiments with a pendulum to determine variations in the earth's gravity and he and Goulburn organized regular ground, air and barometric readings at the outstations to assemble a meteorological record of the colony.[37] In 1823, Brisbane was awarded an honorary degree from the University of Edinburgh for the natural history collection that he sent to its museum.[38] In spite of the excitment of new discoveries, Brisbane felt isolated from the mainstream of scientific work in Britain and Europe and was frustrated by the delayed reaction to his own work.[39]

Brisbane vehemently denied that his time in New South Wales had been devoted to astronomy to the exclusion of his

36. Brisbane to (?), 4 April 1821 (in French), Brisbane/Arago Correspondence, La Bibliotheque de l'Institut de France, Academie des Sciences, Paris; Wilmot-Horton to Brisbane, 23 January 1824, with encl., HRA i,X1,201-202; Brisbane to (Davy?), 11 June 1824, Royal Society, London, Unpublished Archives AP 11/5E (another copy in Brisbane Papers ML UCMSS 419, Part 1); Field to Marsden, 2 March 1825, Marsden Papers ML A1992; Hay to Darling, 23 December 1826, CO 324/85, f.88.

37. Brisbane to (?), 13 December 1822, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Davy, 18 April 1823, Royal Society, London, Unpublished Archives AP 11/5D; Brisbane to Kater, 6 November 1824, with encls., ibid., AP 11/5F, 5I; F.Goulburn, "Meteorological Diary for Twelve Months 1821-1822", in B.Field (ed.), Geographical Memoirs on New South Wales (London, 1825), pp.383-396; T.Brisbane, "Mean of Twelve Months Meteorological Observations in 1822-1823", ibid., p.397 (also printed in the Edinburgh Philosophical Journal, 11 (1824), pp.119-120); T.Brisbane, "Observations on the Temperature of the Earth at Parramatta, New South Wales", Edinburgh Philosophical Journal, 10 (1824), pp.219-222; T.Brisbane, "On the Meteorological Tables kept in 1822 at Macquarie Harbour and Hobart Town, Van Diemen's Land", Edinburgh Journal of Science, 2 (1825), pp.75-77; T.Brisbane, "Observations on the Mean Temperature of the Earth at Sydney made in the Years 1824-1825", Edinburgh Journal of Science, 6 (1827), pp.226-228; T.Brisbane, "Observations made at Port Macquarie, Van Diemen's Land for the purpose of determining the Decrease of Heat in ascending the Atmosphere", ibid., pp.246-249.

38. University of Edinburgh Senate, Minutes, 16 November, 28 December 1822, 4 January 1823. I am grateful to the Keeper of Manuscripts at the University of Edinburgh Library for supplying this information; Brisbane to Hope, 5 November 1823, Brisbane Papers ML FM4/1626, Section 1.

39. Brisbane to Craufurd, 13 February 1823, Brisbane Papers PRO PMG1/1; Brisbane to Davy, 14 February 1823, Royal Society, London, Unpublished Archives AP 11/5C.

public duties.[40] Such accusations were most common in the first year of his government, particularly when criticism of the dollar policy and the dismissal of the Parramatta magistrates was at its height.[41] They reappeared in the articles in the London Morning Chronicle in 1824 but there had been fewer comments in the intervening years.[42]

Brisbane published six articles on the work of the observatory in British scientific journals while he was in New South Wales and another eight papers appeared within two years of his return to Britain but most of these articles were short reports and tables of observations rather than detailed analysis of his work.[43] The records of the observatory indicate that the governor's contribution was limited but Brisbane's constant residence near the observatory implied that he was more actively involved. Though the accusations about Brisbane's preoccupation with astronomy can be discounted for much of the period, they cannot be completely dismissed. There are indications that Brisbane's concentration may have been divided at critical periods such as during the dollar and Rumsby controversies which followed the excitment of the return of Enke's comet and possibly at the time of his quarrel with Goulburn.[44]

40. Brisbane to Bathurst, 26 January 1825, Brisbane Papers, Scott Collection, Bundle 2; Brisbane to (Craufurd?), 13 May 1825, Brisbane Papers ML FM4/1626, Section 1.
41. Druitt to Bathurst, 18 July 1822, CO 201/111, f.180; Jamison to Bathurst, 2 September 1822, ibid., ff.365-366; R.Crawford to H.Crawford, 24 September 1822, Brisbane Papers GA Ardgowan 295; Berry to (?), 10 January 1823, Berry Papers ML UCMSS 315/5.
42. Morning Chronicle, 6, 21 August 1824; Australian, 15 December 1825; O.& W.L.Havard, "Some Early French Visitors to the Blue Mountains and Bathurst, Part 11", JRAHS, 24 (1938), p.262; M.Robinson, "The Old Viceroy. Anniversary Ode, 1824", quoted in A.Hewison, The Macquarie Decade (Melbourne, 1972), p.201.
43. Royal Society, Catalogue of Scientific Papers 1800-1863 (London, 1867), Vol.1, "T.Brisbane".
44. Druitt to Bathurst, 18 July 1822, CO 201/111, f.180; Jamison to Bathurst, 2 September 1822, ibid., ff.365-366; Brisbane to Blane, 22 March 1824, Brisbane Papers ML FM4/1626, Section 1.

In declining to give reasons for the change of administration in New South Wales, the Colonial Office failed to contradict the rumours about Brisbane's astronomy or the Morning Chronicle allegations. It also obscured the selection of Brisbane's successor and Brisbane's performance as governor.

Brisbane had been appointed some time after Macquarie's resignation was known but this was not the case with his successor. General Ralph Darling was a career soldier with extensive administrative and colonial experience, including four years in Mauritius.[45] He and Brisbane had served in the same regiment and occasionally corresponded.[46] Darling returned to Britain in late 1823 and by March 1824 had contacted Macquarie about conditions and salary for the governor of New South Wales.[47] News that Darling was soliciting the appointment spread quickly and by June 1824 there were rumours in London that he had already been selected as Brisbane's successor.[48] These rumours coincided with Field's intimation that the Colonial Office was inviting complaints against Brisbane's administration, two months before the serious attacks in the British press.[49] When Brisbane's despatch of 1 May 1824 arrived at the Colonial Office on 1 November 1824, decisive action was taken.[50]

45. "R.Darling", ADB, Vol.1; B.Fletcher, "Administrative Reform in New South Wales Under Governor Darling", Australian Journal of Public Administration, 38 (1979), p.248.
46. Darling to Brisbane, 4 November 1814, Brisbane Papers, William Clements Library, University of Michigan; Brisbane to Darling, - August 1823, quoted in Darling to Hay, 1 November 1827, HRA i,XIII,587; Darling to Brisbane, 4 February 1826, Brisbane Papers ML FM4/1626, Section 10.
47. Macquarie to Darling, 21 March 1824, encl. in Darling to (Wilmot-Horton?), 21 November 1824, CO 201/155, f.364.
48. Australian, 28 April, 12 May 1825.
49. Field to Marsden, 28 June 1824, Marsden Papers ML A1992.
50. Brisbane to Bathurst, 1 May 1824, with encls., stamped "Received 1 November 1824", CO 201/150, f.72; Brisbane to (Craufurd?), 13 May 1825, Brisbane Papers ML FM4/1626, Section 1.

Twelve days later Darling was named as the new governor.[51] The new colonial secretary, Alexander McLeay, was not appointed until a month later. He also was an experienced administrator.[52]

The immediate reason for the recall of Brisbane and Goulburn was the breakdown of working relations after their quarrel in April 1824.[53] The assumptions that the differences between the governor and the colonial secretary were irreconcilable and crippled the administration were premature but they were valid causes of concern for the Colonial Office. A subordinate officer's defiance of his superior was sufficient to justify Goulburn's recall but the quarrel itself was an inadequate reason to remove the governor.[54] Brisbane, whilst admitting that he had placed too much confidence in the colonial secretary, could not accept their quarrel as sufficient grounds for a change of administration. He believed that he had been sacrificed to cushion the fall of the colonial secretary.[55] Henry Goulburn assumed that his brother and the governor would be recalled because of their administrative relations[56] but his connection with the Colonial Office ensured that no censure was attached to his brother's removal from office.[57] The Colonial Office's ready acceptance of the quarrel to recall both Brisbane and Goulburn

51. Brisbane to H.M.the King, 12 November 1824, Bathurst Papers BM Loan 57/15, p.1868.
52. J.Macarthur jr to J.Macarthur, 29 November, 27 December 1824, Macarthur Papers ML A2911; McLeay to Bathurst, 28 December 1824, McLeay Papers, Box A-J, Linnean Society, London; "A.McLeay", ADB, Vol.2.
53. Bathurst to H.M.the King, 12 November 1824, Bathurst Papers BM Loan 57/15, p.1868; (Craufurd?) to Brisbane, 3 January 1825, Brisbane Papers ML FM4/1626, Section 11; Brisbane to Bathurst, 15 May 1825, HRA i,X1,589; Wellington to Brisbane, 31 July 1826, Brisbane Papers ML UCMSS 419, Part 2.
54. CO Minute, 26 July 1826, CO 201/178, f.632.
55. Brisbane to (Craufurd?), 13 May 1825, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Bruce, 20 May 1825, ibid.
56. H.Goulburn to Bathurst, 7 September 1824, Bathurst Papers BM Loan 57/15, p.1860. Whether this assumption was based on information from his brother or a result of the Morning Chronicle's accusations is not clear.
57. H.Goulburn to Wilmot-Horton, 27 November 1824, Catton Papers, Derby.

suggests that there were other factors which influenced its decision aside from the "Goulburnian controversy".[58]

The Colonial Office was not under any pressure from parliament to change the government in New South Wales. Interest in the colony had faded with Macquarie's resignation and Bennet, the most vocal critic, was satisfied with Brisbane's appointment.[59] Parliamentary attacks on colonial mismanagement continued but the governor of the Cape of Good Hope, Lord Charles Somerset, became the new target for the radical critics.[60] Bennet did query the colonial government's part in the dollar system[61] but, despite the efforts of Field and King to enlist the support of Wilberforce and his friends, the scandals involving Douglass and the alleged torture of convicts were not brought before parliament until early in 1826, more than a year after Brisbane's recall.[62]

Nevertheless, Bathurst was concerned that the articles in the Morning Chronicle from August 1824 were the prelude to a parliamentary attack and he requested Brisbane to provide explanations so that he could defend the colonial administration.[63] As late as November 1824, Bathurst was still worried about an attack in the House of Commons.[64] The colonial government was recalled while parliament was in recess. When the 1825 session opened, the two members most

58. Stephen to Arthur, 4 January 1825, Arthur Papers ML A2164.
59. J.Macarthur jr to J.Macarthur, 1 June 1821, Macarthur Papers ML A2911.
60. P.D., 2nd series, Vol.12, 1825, col.998; Vol.13, 1825, col.1167,1274; N.D.McLachlan, "Bathurst at the Colonial Office 1812-1827: A Reconnaisance", Historical Studies, 13 (1969), p.501.
61. P.P., 1824, Vol.XVI, p.492; The Times, 10 April 1824.
62. P.P., 1826, Vol.XXVI, pp.1-18; The Times, 15 April 1826.
63. Bathurst to Brisbane, 23 August 1824, Bathurst Papers BM Loan 57/64, p.34.
64. H.Goulburn to Bathurst, 28 November 1824, ibid., Loan 57/15, p.1874; Australian, 3 March 1825.

likely to take an interest in New South Wales were absent. Wilberforce, Marsden's patron, had retired but his confidence in Marsden's integrity had been shaken by the details of the Douglass intrigues and Bennet was in Europe.[65] Brisbane's friends in the opposition had planned to defend him but they were faced with a fait accompli and the changes in New South Wales passed without comment.[66]

News of the quarrel between Brisbane and Goulburn climaxed months of doubt at the Colonial Office about the efficiency of Brisbane's administration. The governor's land and convict policies had been rejected yet Brisbane appeared to ignore the alternative policies drafted in London.[67] From mid-1824, the Colonial Office paid closer attention to New South Wales, suddenly realizing that no copies of the Sydney Gazette had been sent since Macquarie's departure.[68] Wilmot-Horton's letter to Goulburn in July 1824 pointing to the governor's total misunderstanding of the Colonial Office's views on land policy was a serious indication of lack of confidence in Brisbane, particularly since the governor was not similarly informed.[69] A few weeks later the Colonial Office's legal adviser, James Stephen, expressed his doubts about the competence of the New South Wales administration to the new governor of Van Diemen's Land.[70]

65. Field to Marsden, 2 March 1825, Marsden Papers ML A1992; A.T.Yarwood, Samuel Marsden. The Great Survivor (Melbourne, 1977), p.249; J.Macarthur jr to J.Macarthur, 12 June 1825, Macarthur Papers ML A2911.
66. H.Goulburn to Wilmot-Horton, 20 November 1824, Catton Papers, Derby; (Craufurd?) to Brisbane, 3 January 1825, Brisbane Papers ML FM4/1626, Section 11; Field to Marsden, 2 March 1825, Marsden Papers ML A1992.
67. Bathurst to Brisbane, 30 May, 31 May 1823, HRA i,X1,83-88; Brisbane to Bathurst, 29 November 1823, ibid., pp.179-184.
68. Bathurst to Brisbane, 31 May 1824, ibid., p.264; Wilmot-Horton to Brisbane, 26 June 1824, ibid., pp.301-302.
69. Wilmot-Horton to Goulburn, 7 July 1824, CO 201/155, ff.499-507.
70. Stephen to Arthur, 31 July 1824, Arthur Papers ML A2164.

In late July 1824, Brisbane was ordered to report specifically on his implementation of Bigge's recommendations, though the governor had sent a report the previous year.[71] Fuelled by the complaints of Field and King, the despatches to the colonial government in the latter part of 1824 were constant demands for explanations.[72] Later, when the governor's friends pressed for a specific reason for his recall, Bathurst replied that it was a consequence of Brisbane's own account of his proceedings as governor.[73] The Colonial Office was clearly dissatisfied with the way Brisbane was conducting his government. Goulburn's "indiscretion" by abusing the governor's authority combined with Brisbane's "imbecility" in ignoring Colonial Office instructions for the management of his government were strong reasons for their recall.[74] Bathurst had concluded that Brisbane was "very unfit to be governor".[75]

The timing of Brisbane and Goulburn's recall was decided by news of their quarrel but the Colonial Office's willingness to act on this information reflected its doubts of Brisbane's ability to implement its policies. With a more experienced administrator available to replace Brisbane, it was a prudent opportunity to change the colonial administration.

71. Bathurst to Brisbane, 22 July 1824, HRA i,X1,321; Brisbane to Bathurst, 28 April 1823, ibid., pp.74-80.
72. e.g. the Douglass inquiry, the revival of the dismissal of the Parramatta magistrates, the Presbyterian address incident, Macarthur's land grant and appeal case, the baptism of the Factory children, management of women and boy convicts, improper pardons, frequent reference of criminal cases to Britain, Rumker and King's land grants. HRA i,X1,305,307,311,346,348,349, 351,359,367,377,388,389,418.
73. (Craufurd?) to Brisbane, 3 January 1825, Brisbane Papers ML FM4/1626, Section 11. This was also implied in Wellington to Bathurst, 20 November 1824, quoted in Historic Manuscripts Commission, Report on the Manuscripts of Earl Bathurst (London, 1923), p.576.
74. Stephen to Arthur, 4 January 1825, Arthur Papers ML A2164.
75. (Craufurd?) to Brisbane, 3 January 1825, Brisbane Papers ML FM4/1626, Section 11.

Brisbane and Goulburn both felt betrayed by the Colonial Office. Brisbane complained of Bathurst's lack of encouragement and constant assumption that the governor was wrong:[76]

> the system of that Office must be totally changed; this colony for sometime past has not been governed by me, but at the Colonial Office and by the faction here, whose tales and whose recommendations were invariably attended to...; Whereas, any recommendation coming from the Governor was proverbially unattended. [77]

Goulburn believed that the newspaper allegations had been accepted and he was dissatisfied when the Colonial Office declined to supply details of the accusations against him or take action against those responsible. He refused later colonial appointments because the Colonial Office would not protect the reputations of its officials.[78]

From the beginning, Bathurst had been reluctant to direct Brisbane. In part, this was a result of the delay before Bigge presented his reports yet Bathurst explained to Brisbane's friend and later secretary of state for colonies, General Sir George Murray, that he did not wish to criticize Brisbane because he was so zealous.[79] Strict orders earlier in Brisbane's government would have hurt less than his recall.

Brisbane's administration received little encouragement from other officials at the Colonial Office. Brisbane and Goulburn distrusted the political under-secretary, Robert Wilmot-Horton, and accused him of circulating unverified

76. Brisbane to (Craufurd?), 13 May 1825, Brisbane Papers ML FM4/1626, Section 1; Brisbane to (?), 31 July 1825, ibid.; Brisbane to Bruce, 1 November 1825, Brisbane Papers ML UCMSS 329.
77. Brisbane to Bruce, - September 1825, Brisbane Papers ML UCMSS 329.
78. Goulburn to Bathurst, 14, 17 July, 16 August 1826, CO 201/178, f.630,634, 636; Goulburn to Douglass, 28 February 1827, Goulburn Papers, Surrey County Record Office Acc.319, Box B 11/9/E, No.65; Goulburn to Huskisson, 9 February, 14 April 1828, CO 201/197, f.486,491-492; Goulburn to Murray, 28 November 1828, ibid., ff.507-511.
79. Bathurst to Murray, 11 November 1822, Bathurst Papers BM Loan 57/64, p.16.

allegations which damaged their reputations.[80] Brisbane complained that the under-secretary had ignored the governor's representatives, Douglass and W.J.Browne, but had listened to the criticisms of Field, King and the Macarthur family.[81] Wilmot-Horton's relations with New South Wales were compromised by his friendship with John Macarthur junior who was a persistent advocate of his family's interests.[82] Aware of the hostility of the Macarthur family to Brisbane's administration, Wilmot-Horton demanded John Macarthur junior's assurance that he was not responsible for the articles in the Morning Chronicle.[83] Nevertheless, the Macarthur view found a sympathetic audience in Wilmot-Horton and influenced Brisbane's recall.[84]

Wilmot-Horton was seriously perturbed by Brisbane's land and convict policies. These doubts were formulated in his long private letter to Goulburn in July 1824 and in his discussions and correspondence with Douglass in September and November 1824.[85] Yet his acceptance of the criticisms of Field and Macarthur was apparent in his draft of the despatch which recalled Brisbane and Goulburn. Bathurst rejected this draft because it implied that the change of government was a result of clashes with local interests and consequent unpopularity, a dangerous precedent in Bathurst's view.[86]

80. Brisbane to Arthur, 1 September 1825, Arthur Papers ML A2166; Goulburn to Murray, 28 November 1828, CO 201/197, ff.507-511.
81. Brisbane to Bruce, - September 1825, Brisbane Papers ML UCMSS 329.
82. Field to Marsden, 28 June 1824, Marsden Papers ML A1992; J.Macarthur jr/ Wilmot-Horton Correspondence, Catton Papers, Derby.
83. Wilmot-Horton to J.Macarthur jr, 21 August 1824, Catton Papers, Derby.
84. H.King, "Pulling Strings at the Colonial Office", JRAHS, 61 (1975), p.147. See also Chapter 7.
85. Wilmot-Horton to Goulburn, 7 July 1824, CO 201/155, ff.499-507; Wilmot-Horton to Douglass, 25 September 1824, CO 202/12, pp.318-328; Wilmot-Horton to Douglass, 5, 16 November 1824, CO 202/13, pp.22-23,40-68.
86. Bathurst to Wilmot-Horton, 25 January 1825, Bathurst Papers ML A73.

A less formal influence at the Colonial Office during the critical months of 1824 when Brisbane's government was under close scrutiny was T.H.Scott. Bigge had been appointed to another inquiry at the Cape of Good Hope and in his absence his secretary, T.H.Scott, became the Colonial Office's unofficial adviser on New South Wales. In August 1823, the Colonial Office sought his advice on the composition of the new legislative council.[87] The following month Scott, who had been ordained on his return from New South Wales, submitted his ideas on the organisation of churches and schools in the colony. Bathurst approved of Scott's suggestion to fund these projects with land endowments to the Church of England and it was incorporated in the land regulations of January 1825.[88]

By May 1824, Scott had been selected as the first archdeacon of New South Wales but the details of his appointment were not finalized until the end of the year.[89] Meanwhile, as Bigge's substitute and archdeacon-elect, Scott was an influential visitor at the Colonial Office.[90] The proposed clergy reserves involved him in discussions on land policy during the months when Brisbane's policies were again rejected and he was present at Wilmot-Horton's meetings with

87. J.Ritchie, Punishment and Profit (Melbourne, 1970), p.254; Wilmot-Horton to Scott, 16 August 1823, HRA iv,1,492-493; Scott to Wilmot-Horton, 22 August 1823, ibid., pp.496-498.
88. Ritchie, op.cit., pp.252-253; A.G.Austin, Australian Education 1788-1900 (Carlton, 1977), pp.10-13; Bathurst to Brisbane, 1 January 1825, HRA i,X1, 438-439,444-454.
89. Stephen to Wilmot-Horton, 7 May 1824, CO 323/198, ff.381-392; Bathurst to the Advocate, Attorney and Solicitor General, 23 June 1824, HRA iv,1,541-542; Robinson, Copley and Wetherell to Bathurst, 26 July 1824, ibid., pp.545-549; Bathurst to Brisbane, 21 December 1824, HRA i,X1,419-422.
90. Field to Marsden, 28 June 1824, Marsden Papers ML A1992; Field to Marsden, 16 December 1824, Field Papers ML Af23/2; J.Macarthur jr to James Macarthur, 14 November 1824, postscript 17 November, Macarthur Papers ML A2911; J.Macarthur jr to J.Macarthur, 27 December 1824, ibid.

Douglass about Brisbane's land and convict policies.[91] Scott's suggestions for changes to the colonial police were forwarded to the governor in early November 1824.[92]

Scott had maintained his friendship with the Macarthur family[93] and was nominated as arbitrator in their dispute over the Cawdor land grant.[94] He was also appointed by the Colonial Office as one of the investigators into the accusations against Douglass.[95] Scott was critical of Brisbane's government. The reasons for his antipathy were not specified but he was influenced by Field's antagonism toward Douglass.[96] In August 1824, Field intimated that Scott might remain in England until there was a change in the colonial administration and he later believed that Scott's reluctance to serve in Brisbane's government was an influential factor in the decision to recall Brisbane and Goulburn.[97] Scott was consulted about Darling's salary and the recommended increase, from £2,500 to £4,200, was extended to Brisbane, backdated to January 1824.[98]

Brisbane's sense of injury about his recall overshadowed his relief at leaving New South Wales. He had never been happy among the colonists and had considered leaving from 1823.[99] A strong sense of duty and financial pressures kept

91. Scott to Bathurst, 1, 30 March 1824, CO 201/157, f.156,170; Scott to Wilmot-Horton, 29 July 1824, ibid., ff.204-208; Wilmot-Horton to Douglass, 25 September 1824, CO 202/12, p.318.
92. Bathurst to Brisbane, 5 November 1824, with encl., HRA i,X1,411-412.
93. e.g. Scott to J.Macarthur (jr?), 10 June 1822, Macarthur Papers ML A2955.
94. Bathurst to Brisbane, 17 August 1824, HRA i,X1,349.
95. Bathurst to Governor of New South Wales, 2 September 1824, ibid., p.352.
96. Scott to Wilmot-Horton, 3 January 1825, Catton Papers, Derby. See also Chapter 7.
97. Field to Marsden, 31 August 1824, Marsden Papers ML A1992; Field to Marsden, 16 December 1824, Field Papers ML Af23/2.
98. Bathurst to Wilmot-Horton, 2 January 1825, Bathurst Papers ML A73; Bathurst to Brisbane, 28 January 1825, HRA i,X1,476.
99. Brisbane to Craufurd, 8 April 1823, Brisbane Papers PRO PMG1/1; Brisbane to (?), 26 July 1823, Brisbane Papers ML FM4/1626, Section 1.

him in New South Wales but his quarrel with Goulburn further disheartened him and from 1824 even the temptations of astronomy could not overcome his wish to retire.[100] His health had declined and, with the death of his father-in-law in 1825, he would not have stayed after 1826.[101]

On his return to Britain, Brisbane applied for a land grant as compensation for his expenses in the colony. This claim was rejected but he was allowed a 10,000 acre grant with an equivalent reserve, not in recognition of his services but in proportion to the capital he could invest.[102] The grant was not finalized until 1832 and management problems led to its sale in 1836 to W.C.Wentworth.[103] Brisbane received £2,000 compensation for his astronomical equipment which he had left in the colony at the request of the legislative council.[104]

Though he did not contest a seat in parliament as Wentworth had hoped, Brisbane retained his interest in colonial reform. In January 1827 the colonists, again under the leadership of Wentworth, petitioned for trial by jury and a house of assembly.[105] Gregory Blaxland took their petition to

100. Brisbane to Butterworth, 28 April 1824, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Bruce, 1 July 1824, Brisbane Papers ML UCMSS 329; Brisbane, Diary, 16 December 1824, 2 January 1825, Brisbane Papers ML UCMSS 419, Part 1; Weekly Commercial Express, 2 May 1825.
101. Brisbane to (Craufurd?), 13 May 1825, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Bruce, 20 May 1825, ibid.; Brisbane to Arthur, 1 September 1825, Arthur Papers ML A2166.
102. Brisbane to Bathurst, 11 July 1826, CO 201/178, ff.94-96; Brisbane to Hay, 3 August 1826, ibid., f.114; CO Minute, n.d., ibid., f.116; Hay to Darling, 21 August 1826, HRA i,XII,500-501.
103. Galbraith to Brisbane, 10 June 1835, 13 June 1836, Brisbane Papers, Scottish Record Office, Edinburgh GD 242, Box 22; Glenelg to Gipps, 14 March 1838, with encls., HRA i,XIX,321-324; Gipps to Glenelg, 22 October 1838, ibid., pp.629-630.
104. Legislative Council to Brisbane, 11 October 1825, Brisbane Papers ML UCMSS 419, Part 1; Brisbane to Legislative Council, 13 October 1825, ibid.; Brisbane to Bathurst, 11 August 1826, CO 201/178, f.135; Bathurst to Darling, 1 December 1826, with encl., HRA i,XII,706-709.
105. S.G., 23 January 1827; A.C.V.Melbourne, Early Constitutional Development in Australia (1934 and St Lucia, 1972), pp.135-136.

England and enlisted Brisbane's patronage. Brisbane supported the petition even though the Colonial Office urged him not to become involved.[106] Edward Eagar was still in London and he also campaigned at the Colonial Office and among parliamentarians.[107]

Conflicting opinions about the New South Wales Act postponed the debate for a year but in 1828 Brisbane lobbied for liberal changes to the bill among his friends in the House of Lords.[108] His efforts were unsuccessful and the 1828 New South Wales Act while increasing the nominated legislative council withdrew trial by jury from the lower courts. More extensive trial by jury was promised for the future but there was no suggestion of a colonial legislature.[109] Brisbane was disappointed[110] but Mrs Macquarie, who met him during the campaign, assured Wentworth that no-one could have done more for their cause.[111]

This was Brisbane's only active involvement in colonial affairs. He was angry about Marsden's continuing battle with Douglass and protested at the denigration of his administration.[112] In 1830, Brisbane provided information about his government for a parliamentary committee on colonial

106. Brisbane to Forbes, 26 February 1827, Brisbane Papers ML FM4/1626, Section 1; Hay to Brisbane, 27 July 1827, CO 324/85, f.131; Melbourne, op.cit., p.144, fn.5; Monitor, 3 January 1829. A copy of the 1827 petition is among Brisbane's papers ML FM4/1626, Section 14.
107. Monitor, 3 January 1829; N.McLachlan, "Edward Eagar (1787-1866): A Colonial Spokesman in Sydney and London", Historical Studies, 10 (1963), pp.445-446; Melbourne, op.cit., p.144.
108. Brisbane to Herschel, 26 March 1828, Royal Society, London, Herschel Papers Vol.5, No.102; Monitor, 3 January 1829.
109. Melbourne, op.cit., pp.149-151.
110. J.Macarthur jr to J.Macarthur, 22 July 1828, Macarthur Papers ML A2911.
111. E.Macquarie to W.Wentworth, 26 July 1828, Wentworth Papers ML A757.
112. Brisbane to (Secretary of State?), 30 November 1828, CO 201/197, ff.99-101.

expenses[113] but he was not called before the major investigation into New South Wales, the Molesworth Committtee on Transportation in 1837 and 1838.[114] Colonists occasionally approached him to support their claims at the Colonial Office[115] and he maintained a haphazard correspondence with Chief Justice Forbes.[116] The increasing severity of Brisbane's rheumatism, requiring an amanuensis from the 1840s,[117] combined with his dislike of writing letters, discouraged regular contact with the colony, though his sister-in-law and occasionally Lady Brisbane corresponded with the Macarthur and Blaxland ladies until the 1840s.[118]

Brisbane had been gazetted a lieutenant-general in May 1825 but he was bitter that his absence in New South Wales had allowed junior officers, such as his successor Darling, to advance their careers.[119] He and his friends suggested to the government that the command of a regiment would be an

113. Gordon to Brisbane, 3 September 1830, Brisbane Papers ML FM4/1626, Section 11; Brisbane, Replies to Questions on New South Wales, 28 September 1830, ibid., Section 1; Hay to Gordon, 23 August 1830, CO 324/93, f.210; D.M.Young, The Colonial Office in the Early Nineteenth Century (London, 1961), p.193.
114. Brisbane's policies had been based on convict labour so his views might not have agreed with those of the Molesworth Committee. J.Ritchie, "Towards Ending an Unclean Thing: The Molesworth Committee and the Abolition of Transportation to New South Wales, 1837-1840", Historical Studies, 17 (1976), pp.144-164.
115. Brisbane to Hay, 29 March, 25 December 1827, CO 201/187, f.29,87; Brisbane to Murray, 4 January 1842, National Library of Scotland, Murray Papers Vol.184, f.22; Brisbane to Mitchell, 13 July 1842, Mitchell Papers ML A2026.
116. Brisbane to Forbes, 26 February 1827, Brisbane Papers ML FM4/1626, Section 1.
117. Brisbane to Murray, 4 January 1842, National Library of Scotland, Murray Papers Vol.184, f.22; Brisbane to Murray, 12 April 1845, Brisbane Letters, University of Edinburgh Library.
118. Emmeline Macarthur to Edward Macarthur, 7 January 1832, 18 March 1833, Macarthur Papers ML A2959. I would like to thank Linda Frow for this reference; E.Makdougall to Miss Blaxland, - December 1829, Blaxland Papers ML A1322; Lady Brisbane to Miss Blaxland, 15 February 1843, 11 March (1843?), Blaxland Papers ML Ab/50.
119. Brisbane to (?), 26 July 1823, Brisbane Papers ML FM4/1626, Section 1; Brisbane to Bruce, 1 July 1824, 4 July 1825, Brisbane Papers ML UCMSS 329; Brisbane to Taylor, 29 January 1825, Catton Papers, Derby; Brisbane to Wilmot-Horton, 31 January 1825, ibid.; S.G., 14 November 1825.

appropriate gesture to clear his reputation from the attacks in the press and in the colony.[120] Regiments were rewards for long military or colonial service. The duties of a regimental colonel were ceremonial and provided the officer with a comfortable income for life.[121] Brisbane's earlier patron, the Duke of York, sympathized with his bitterness and in December 1826 made Brisbane colonel of the 34th Regiment. This was the second regiment to become vacant since his return so was a sufficiently prompt and public gesture to emphasize that Brisbane's recall had not been due to misconduct or dereliction of duty.[122] Brisbane did not return to active military service though he was offered senior commands in the 1830s which he declined because of ill-health.[123]

Under the terms of his father-in-law's settlement, Brisbane adopted the additional name of Makdougall in 1826 and lived at Makerstoun, the Makdougall home in Roxburghshire.[124] An active patron of astronomy, he was president of the Royal Society of Edinburgh from 1833 until his death.[125] Brisbane's health deteriorated seriously in 1859 and he died at Brisbane House on 27 January 1860, aged eighty-seven.[126] His four children had died earlier and Lady Brisbane survived her husband by only a few years, dying in 1862.[127]

120. Stirling to Hay, 29 July 1826, CO 201/179, f.377.
121. H.King, Richard Bourke (Melbourne, 1971), pp.126-127.
122. Duke of York to Brisbane, (23 June 1826?), Brisbane Papers ML MSS 1191/2; Brisbane to Duke of York, 24 December 1826, ibid.; Brisbane to Forbes, 26 January 1827, Brisbane Papers ML FM4/1626, Section 1; Stewart to Brisbane, 16 December 1827, Brisbane Papers ML MSS 1191/1.
123. Somerset to Brisbane, 23 January 1836, Brisbane Papers ML MSS 1191/2; Brisbane to Somerset, 25 January 1836, ibid.; Brisbane to (?), 17 August 1838, National Library of Scotland, Douglas Papers MSS 8101, f.18.
124. Settlements of Sir Henry Hay Makdougall, Register of Deeds, Vols.289,293, Scottish Record Office, Edinburgh; Tasker, op.cit., p.39,61.
125. "T.Brisbane", DNB.
126. Tasker to Forbes, 27 January 1860, University of St Andrews Library, Forbes Papers MS Deposit 7, 1860/13.
127. Tasker, op.cit., p.39,61; Settlements of Lady Brisbane, Register of Deeds Vol.1162, Scottish Record Office, Edinburgh.

Brisbane's administration of New South Wales has retained an aura of personal and professional failure, an impression fostered by his recall after four years and Wellington's epitaph on Brisbane's government, that "there are many brave men not fit to be governors of colonies".[128]

For New South Wales, the years of Brisbane's government were calm and prosperous. External circumstances were favourable. The stimulation of immigration and the accompanying flow of capital were beyond Brisbane's control as was the failure of convict transports to meet the colony's increasing labour requirements. Despite tensions among leading colonists, internal affairs were predominantly stable with no major crises to test the resourcefulness of Brisbane's leadership.

Brisbane's policies for convicts, land and the economy incorporated Macquarie's experiences and the criticisms of Bigge and the colonists. If not original, Brisbane none the less brought a new, more systematic approach to colonial government with his insistence on the application of the principles of political economy. Brisbane accepted that New South Wales was a convict settlement. He was not hostile to the growth of the free sector but would not support its expansion at government expense. By linking convict labour with the supply of land, Brisbane sought to combine the convict system with the free economy in a manner which he

128. Wellington to Bathurst, 20 November 1824, in Historic Manuscripts Commission, Report on the Manuscripts of Earl Bathurst (London, 1923), p.576.

hoped would benefit both the British government, by reducing the number of convicts it had to support, and the settlers, by providing land and labour for their enterprises. In his financial policy, Brisbane again sought to remove the settlers' dependence on the government by forcing them to develop colonial resources for exports.

Brisbane was successful in improving the convict system. He removed major inconsistencies and replaced physical severity with the severity of increased regulation and classification while also reducing expenses. Grants, supplemented by tickets of occupation, made land available to those with the resources, whether in capital or incentive, to use it for pastoralism or agriculture. His economic policies, though unpopular, were successful in stimulating colonial enterprises.

Despite these successes, none of Brisbane's policies survived a year after his departure. Even before he left, Brisbane had dismantled his land grant schemes and the dollar system had been replaced. The clearing gangs were split up and the tickets of occupation revoked. Brisbane's policies were disallowed by the Colonial Office. Expecting Bigge's reports, it had sent the governor to the colony inadequately briefed about its plans for New South Wales. For Brisbane, Bigge's reports became his sword of Damocles.[129] Every change had to conform with Bigge's suggestions. There was

129. Brisbane to Bruce, - September 1825, Brisbane Papers ML UCMSS 329.

no room for the governor's initiatives, even when derived from Bigge. Brisbane had been selective in implementing Bigge's reports. Parts which he had surmised before the reports appeared had already been introduced and modified. Minor suggestions which improved administration were implemented but Brisbane rejected the major penal recommendations. The Wellington Valley settlement and the new charter for the Bank of New South Wales deliberately defied Bigge's reports. This selectivity was not acceptable to the Colonial Office and the governor's discretionary authority was limited by its increasing closer supervision of colonial affairs.

Brisbane was a senior military officer. He accepted overall responsibility but delegated specific duties. It was inconceivable, with his lack of civil experience, that he would not have placed considerable confidence in his subordinate officials. Brisbane, in his initial enthusiasm, was optimistic about the potential achievements of his new policies but, having initiated these changes, he provided little administrative supervision. He recognized the increasing pressures from the free community on what was basically a military and convict administration but neither he nor his senior officials had the experience to remedy these problems. Nor did he have the "habits of business" and the autocratic firmness that enabled Macquarie and Darling to control their administrations.[130] With the failure of Bigge's

130. Forbes to Wilmot-Horton, 29 June 1825, Catton Papers, Derby; Arthur to Darling, 10 January 1826, Arthur Papers ML A2165.

reports to recommend systematic restructuring, the only solution was that Brisbane's successor, whenever he might be appointed, should be a professional administrator. This trend was already apparent in new senior appointments such as Forbes and Lithgow and was implicit in the appointments of Darling and McLeay.

Politically, Brisbane's concepts were naïve. Though he recognized obvious defiance of his authority, such as the Parramatta magistrates' attempt to dismiss a fellow magistrate or Bannister's refusal to prepare legislation, Brisbane did not realize that the colonists saw his delegation of duties to Goulburn as an abdication of power. Bathurst also considered that Brisbane's acceptance of the farewell address with its constitutional demands was a sign of political naïvety. Brisbane was not attracted by the immense personal authority of his position because of his "modest mistrust" of his own abilities.[131] Both he and Goulburn led secluded lives. This retirement gave the impression that Brisbane was uninterested in colonial affairs, an impression which was not helped by careless lapses such as Marsden's letter to Peel, the reply to the Presbyterians and his tactless handling of the orphan school committees, incidents which also revealed his ignorance of their political uses.

At the heart of Brisbane's apparent failure as governor was the lack of dominant leadership. The lines of Robinson's ode, "Give us for Governor the man Who rules and is obey'd",

131. Forbes to Wilmot-Horton, 7 November 1824, 29 June 1825, Catton Papers, Derby.

expressed this inadequacy.[132] Despite their rejection of Macquarie's autocracy, the settlers nevertheless looked for an authoritarian figure. The colonists liked Brisbane personally but constantly despaired at the lack of firmness in his public character.[133] Forbes also agreed that Macquarie had been a stronger governor, though he was less certain that this had been an advantage.[134]

Brisbane himself considered that the colony had made real advances under his government[135] but he had few illusions about the situation in which he had been placed:

> Bred to the profession of a soldier,...it was not to be expected that I could bring to the duties of the office..., more than an ordinary acquaintance with the details of civil business. Considering the limited assistance placed within my power, and the many complicated and difficult duties I had to perform, I ought to esteem myself fortunate that the errors and omissions of my administration have not been more frequent. [136]

He was confident that the introduction of a competitive press and trial by jury would be the lasting contributions of his government[137] and they survived as important civic foundations. So too did the legislative council. Brisbane's co-operation gave that body an easier birth than might have been the case under either Macquarie or Darling. Structurally, it was a more sympathetic background to Brisbane's style of government but the period was too short to assume that Brisbane and his

132. M.M.Robinson, "The Old Viceroy", Anniversary Ode for 1824, quoted in A.Hewison, The Macquarie Decade (Melbourne, 1972), p.201.
133. Oxley to Bigge, 3 September 1822, Oxley Papers ML A5322/1, No.44, p.32; Marsden to Pratt, 7 February 1825, ML BT Box 53, pp.1465-1467; Mrs Brooks, Diary, 27 October 1825, NLA MS 1559/4.
134. Forbes to Wilmot-Horton, 14 August 1824, Catton Papers, Derby.
135. Brisbane to (Craufurd?), 13 May 1825, Brisbane Papers ML FM4/1626, Section 1.
136. Brisbane's reply to the Farewell Address, 26 October 1825, HRA iv,1,632.
137. Brisbane to (Craufurd?), 13 May 1825, Brisbane Papers ML FM4/1626, Section 1.

council would have provided stronger leadership than Brisbane had shown in his government alone.

Brisbane's more immediate influence on New South Wales was an embarrassment for his successor. Continued political activity required an identity figure. Wentworth had initially praised Macquarie and his support for the emancipists. Though the myth of Macquarie as the liberal governor remained, Macquarie's occasional acts of despotism were too well remembered to evoke sympathy.[138] Trial by jury, a competitive press and Brisbane's support for liberal changes to the New South Wales Act provided more substance. As opposition to Darling increased, so did the myth of Brisbane's liberalism, culminating at the Turf Club dinner in November 1827 to commemorate Brisbane's gift of a trophy. Wentworth praised Brisbane as "the father of Australia - one of the greatest and most efficient of our benefactors", a generous, hospitable man of the people in comparison to the "ostentatious pride and frigid indifference" of his succcessor.[139] This picture was flawed as some remembered that such exaggerations applied only to the closing stages of Brisbane's government.[140] Nevertheless, praise of Brisbane became political criticism of Darling and his government, with accusations that those who supported the former governor were persecuted by Darling.[141]

138. Ritchie, op.cit., pp.246-247.
139. Monitor, 12 November 1827; Australian, 14 November 1827.
140. Monitor, 15 November 1827.
141. Brisbane to Hay, 28 July 1827, CO 201/187, f.55; Allan to Brisbane, 14 December 1828, Brisbane Papers ML FM4/1626, Section 11; Darling to Hay, 9 February 1827, HRA i,X111,97.

Success and failure are relative not absolute judgements. Brisbane's government of New South Wales was not outstanding but it was moderately successful, yet he failed to fulfil the expectations of the Colonial Office and the settlers. As a colonial governor, Brisbane remains an unsatisfying figure. New South Wales was not the place for this quiet, amiable gentleman.[142]

142. Marsden to Pratt, 7 February 1825, ML BT Box 53, pp.1465-1467.

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Register of Tickets of Leave 1824-1827	4/4060
Register of Conditional Pardons 1791-1825	4/4430
Register of Absolute Pardons 1791-1825	4/4486
Register of Artificers Assigned in Terms of the Government Order of 22 December 1821	4/4520
Assignment of Convicts who are not Artificers 1821-1824	4/4521
List of Absconding Convicts 1822-1825	4/4525
Return of Convicts Tried Before Magistrates 1823-1824	4/6671
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Assignment of Convicts 1822-1824	CS-SB 3821.1

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