

PART 3.

*The*  
Story of the  
AUSTRALIAN  
PEOPLE

◆ BY

J. N. RAWLING, B.A.

*To Be  
Published  
in Ten  
Monthly  
Parts.*

MODERN  
PUBLISHERS  
AND IMPORTERS,  
SYDNEY

## Foreword

**THIS "STORY OF THE AUSTRALIAN PEOPLE"** is to be published in Ten Monthly Parts of 80 pages each. Those parts do not coincide in any way with the divisions of the book nor are they separately complete in themselves. When the work is completed the parts may be bound together to form one book of 800 pages. As, for obvious reasons, it would be difficult to publish in this First Part the Introduction, List of Contents, etc., these will form portion of our Tenth Part and will be easily detachable in order to be placed at the front of the book prior to binding.

The whole work is divided into Seven Books, as follow: I., *Prelude and Perspective*; II., *Penal Settlement* (1788-1823); III., *Free Colony and Self Government* (1823-1856); IV., *Democracy and Nationalism* (1856-1885); V., *End of an Age* (1885-1901); VI., *Commonwealth and War* (1901-1919); VII., *The Latest Age* (1919-1938).

### THIS IS PART III.

Part IV., which will appear on September 1, will tell of the Bligh Mutiny, the Black War, and the beginnings of Australian Self Government.

horrors that then awaited them, and the heartlessness of the land-owners. Many of the latter and their apologists sought to cover the ugliness of it all with a veil of morality and altruism. It was being done, forsooth, in the interests of the people themselves!

Mr. and Mrs. Hammond quote from such moralisings. "Moral effects of an injurious tendency accrue to the cottager,\* from a reliance on the benefits of stocking a common. The possession of a cow or two, with a hog, and a few geese, naturally exalts the peasant, in his own conception, above his brethren in the same rank of society. It inspires some degree of confidence in a property, inadequate to his support. In sauntering after his cattle, he acquires a habit of indolence. Quarter, half, and occasionally whole days are imperceptibly lost. Day labor becomes disgusting; the aversion increases by indulgence; and at length the sale of a half-fed calf, or hog, furnishes the means of adding intemperance to idleness." So said Mr. Billingsley of Somerset in 1795.<sup>22</sup>

The same burden is to be found in the complaints of others—from Shropshire: "the use of common land by labourers operates upon the mind as a sort of independence";<sup>23</sup> from Middlesex: the gaining of trifling advantages "unfortunately gives their minds an improper bias, and inculcates a desire to live, from that time forward, without labour, or at least with as little as possible."<sup>24</sup> And, of course, lords of manors, members of parliament and absentee clergymen should alone live without working.

Enclosure is the remedy. After enclosure, "the labourers will work every day in the year, their children will be put out to labour early" and "that subordination of the lower ranks of society which in the present times is so much wanted, would be thereby considerably secured." So said Mr. Bishton, of Shropshire in 1794.<sup>25</sup>

Millions of acres were involved in the enclosures during the 18th century and the first half of the 19th. One estimate gives 203 Enclosure Acts passed between 1700 and 1760 involving 312,363 acres. During the next 40 years the figures were: 2000 Acts, 3,180,871 acres, and between 1801 and 1844, 1883 Acts, 2,549,345 acres. The total for 144 years was, therefore, 4091 Acts and 6,042,579 acres!<sup>26</sup> What suffering those figures represent may be left to the imagination.

To bring about an enclosure was a simple procedure. The signature of one landowner was sufficient to set things moving.

\* A cottager lived mainly as a laborer but he owned or occupied a cottage and had certain rights in the common land.



Even when, after 1774, it was necessary to give all the villagers notice of the intention to apply for an enclosure, the whole matter was arranged in secret, beforehand. A petition was then sent to Parliament—and only one signature was necessary. "Parliament . . . would give leave for a Bill to be introduced. The Bill would be read a first and second time, and would then be referred to a Committee which, after considering such petitions against the enclosure as the House of Commons referred to it, would present its report. The Bill would then be passed, sent to the Lords and receive the Royal Assent. Finally, the Commissioners named in the Bill would descend on the district and distribute the land. . . . What, in point of fact, could the poor do to declare their opposition? They could tear down the notices from the church doors: they could break up a public meeting, if one were held: but the only way in which they could protest was by violent and disorderly proceedings, which made no impression at all on Parliament, and which the forces of law and order could, if necessary, be summoned to quell."<sup>20</sup> The Committee appointed would not hold up any enclosure—unless powerful influences were dissatisfied with the sharing out of the spoils. In such cases the Committee was where the differences were argued and settled. But the cottagers, who had no votes and had no money to send lawyers to represent them before the Committee, had no say. "What prospect was there that the obscure cottager, who was to be turned adrift with his family by an Enclosure Bill promoted by a Member or group of Members, would ever trouble the conscience\* of a committee of landowners?"<sup>21</sup>

Back in the village, after the Bill became law, the commissioners, appointed by the lord of the manor, the tithe-owner and those who owned the greater part of the village,<sup>22</sup> portioned out the land in whatever way they thought fit. Any flaw in

\* An illustration of the character of an Enclosure Committee is furnished by a quotation from the "Parliamentary Register" of January 21, 1772: "Sir Wm. Meredith moved, That it might be a general order, that no Bill, or clause in a Bill, making any offence capital, should be agreed to but in a Committee of the whole House. He observed, that at present the facility of passing such clauses was shameful: that he was once passing a Committee-room, when only one Member was holding a Committee, with a clerk's boy, he happened to hear something of hanging; he immediately had the curiosity to ask what was going forward in that small Committee that could merit such a punishment? He was answered that it was an enclosing Bill, in which a great many poor people were concerned, who opposed the Bill; that they feared those people would obstruct the execution of the Act and, therefore, this clause was to make it capital felony in anyone who did so."—(Hammond: "Village Labourer," p. 64).

title, or even an irregularity in the manner of presenting a claim, was enough to have it rejected. "Let us imagine the cottager, unable to read or write enjoying certain customary rights of common without any idea of their origin or history or legal basis: knowing only that as long as he can remember he has kept a cow, driven geese across the waste, pulled fuel out of the neighbouring brushwood, and cut turf from the common, and that his father did all these things before him," having within a specified time "to present to his landlord's bailiff, or to the parson, or to one of the magistrates into whose hands, perhaps, he has fallen before now over a matter of hare or part-ridge, or to some solicitor from the country town, a clear and correct statement of his rights and his claim to a share in the award!"<sup>23</sup> In one case, 4063 claims were made—1798 were allowed.<sup>24</sup>

There was resistance—and there were movements of troops, arrests, hangings, transportations. There were attempts to organise the laborers and the dispossessed farmers—and there were Pitt's Treason and Sedition Acts. There were riots—and, after 1788, there was New South Wales. The full story of the heroic resistance by the country men and women of England has still to be told. And still to be told, too, is why the conditions in England, which in some respects were worse than those that their French brothers and sisters lived under, did not drive also the English people to revolution. Transportation to New South Wales played its part as a safety valve that preserved the English aristocracy from the explosion that uprooted the French.

But, in England, "history has drawn a curtain over those days of exile and suffering, when cottages were pulled down as if by an invader's hand, and families that had lived for centuries in their dales or on their small farms and commons were driven before the torrent, losing

Estate and house . . . and all their sheep,  
A pretty flock, and which for aught I know  
Had clothed the Ewbanks for a thousand years."

Ancient possessions and ancient families disappeared. . . . These debonair lords who smile at us from family galleries do not grudge us our knowledge of the escapades at Brooks's or at White's in which they sowed their wild oats, but we fancy they are grateful for the poppy seeds of oblivion that have been scattered over the secrets of their estates. Happy the race that can so engage the world with its follies that it can secure repose for its crimes."<sup>25</sup>



Hopelessness came to possess the majority of the men and women who were dispossessed of their farms and deprived of their independence. Everlasting poverty faced them. And, by the Parliament that expropriated them, the eternity of their poverty was regarded as inevitable. Preparations were kindly made to meet it. There was still to be a place for everybody and the Poor Laws were "reformed" to create the places. England was to be a land of efficient workhouses, in consonance with an age of reason and good order, and of "relief," indoor and outdoor, sufficiently heartless to satisfy those who frowned on all emotion. The system lasted into and survived the Victorian era to save the middle-class conscience and to provide employment for those comfortable and moral folk who delighted in doing good to their fellow-men and in preaching sermons based on texts furnished by the vices and improvidence of the lower orders.

Poaching became a means of bridging the gap between relief or starvation wages and subsistence. The government and the landowners combined to destroy that bridge. "The history of the agricultural laborer in this generation is written in the code of the Game Laws, the growing brutality of the Criminal Law, and the preoccupation of the rich with the efficacy of punishment."<sup>28</sup> It is necessary that we clearly understand the nature and implications of poaching, not merely that we may see it in its correct perspective, but that we may do justice to the memory of the poachers.\* Some measure of justice is accorded to them by Mr. and Mrs. Hammond, who have this to say:—

We know from Fielding with what sort of justice the magistrates treated persons accused of poaching in the reign of George III's grandfather, but when he wrote his account of Squire Western, and when Blackstone wrote that Game Laws had raised up a little Nimrod in every manor, the blood of men and boys had not yet been spilt for the pleasures of the rich. It is only after Fielding and Blackstone were both in their graves that this page of history became crimson, and that the gentlemen of England took to guarding their special amusements by methods of which a Member of Parliament declared the nobles of France had not ventured on the like in the days of their most splendid arrogance. The little Nimrods who made and applied their code were a small and select class. . . . The legislation that occupies so much of English history during a period of misery

\* "The poacher convicts," said the late Prof. Wood, "were the best villagers. . . . Every brave fellow became a poacher."

and famine is devoted to the protection of the monopoly of this class, comprising less than one in 10,000 of the people of England. . . . With the general growth of upper-class riches and luxury there came over shooting a change corresponding with the change that turned hunting into a magnificent and extravagant spectacle. The habit set in of preserving game in great masses, of organising the battue, of maintaining armies of keepers. In many parts of the country, pheasants were now introduced for the first time. Whereas game had hitherto kept something of the wildness, and vagrancy, and careless freedom of nature, the woods were now packed with tame and docile birds, whose gay feathers sparkled among the trees, before the eyes of the half-starved labourers breaking stones on the road at half a crown a week. . . . The sport of the rich was becoming more and more of an elaborate system, and more of a vested interest. This development was marked by the growth of an offensive combination among game preservers; in some parts of the country game associations were formed, for the express purpose of paying the costs of prosecution, so that the poacher had against him not merely a bench of game preservers, but a ring of squires, a sort of holy alliance for the punishment of social rebels, which drew its meshes not round a parish but round a county. Simultaneously, as we have seen, a general change was coming over the circumstances and position of the poor. The mass of the people were losing their rights and independence; they were being forced into an absolute dependence on wages, and were living on the brink of famine."

We have no cause to be ashamed that among the founders of Australia were many poachers. Rather would we have been ashamed of our British heritage, and of our fathers, had there been no poachers in the England of the 18th and 19th centuries.

Act after Act was passed to put down poaching. Punishment become severer, more brutal, more humiliating. Imprisonment for long terms, treatment as rogues and vagabonds, whippings, sentences to serve in the army and navy, transportation—these were punishments that awaited men who, in order to provide food for their wives and children, shot or snared, or attempted to shoot or snare, the rabbits and pheasants of over-fed landlords and ladies who wanted, not to eat them, but merely to hunt them. The violence that the poachers had to expect when caught forced them to unite for their own protection. Poaching in gangs became the rule. Poaching became an organised industry and the workers therein formed unions in self-defence. Battles were fought between poachers and game-keepers. Then a law made death the penalty for attempting with arms to prevent the arrest of any poacher and another Act (in 1816) provided for a sentence of transportation for seven years for



being found with a net for poaching in any forest, chase or park.<sup>85</sup> A manifesto in a Bath paper was at once a reply to this Act and an evidence that the poachers were not criminals but men fighting for the preservation of their lives and liberties.\*

In such a way as this did thousands of Englishmen become landless men. Their patrimony passed into the possession of a few landlords and capitalist farmers. Pheasants had become more important than children—except in the factories of the new industrial towns where their tears and sweat were transmuted by the potent alchemy of "laissez-faire" into wealth and profits for the few.

3.—**LAISSEZ-FAIRE.**—England had vanquished all rivals. She was mistress of the seas and the ruler of a vast empire upon which even then the sun never set. For three centuries English sailors had risked and given their lives navigating new oceans, and discovering new lands, where colonies had been founded and whence wealth had rolled into the coffers of merchant princes and merchant companies. All of the vast wealth that had been created and accumulated benefited the bulk of the people not a whit. The few rich were richer than they were in 1500; but there were less who were comfortably off and the masses were poorer. The promise of the age of the overthrow of feudalism had been belied. The common man of George III's reign was no freer than his forefathers in that of Elizabeth. He certainly had no more of this world's goods, even if more of those of the next were promised him by such as William Wilberforce. And the lot of the feudal serf of the 13th century was surely preferable to that of the industrial slave of the 19th—at least until the latter learned the necessity of revolt.

Two things were necessary for the creation of the factory system and for the consummation of the economic development that we call the **Industrial Revolution**. They were the concentration into the hands of a few of the capital used and to be used in manufacture and the emergence of a class of people

\* The Manifesto ran: "Take Notice.—We have lately heard and seen that there is an act passed, and whatever poacher is caught destroying the game is to be transported for seven years.—This is English Liberty!

"Now we do swear to each other that the first of our company that this law is inflicted on, that there shall not be one gentleman's seat in our country escape the rage of fire. The first that impeaches shall be shot.

You may think it a threat, but they will find it a reality. The Game Laws were too severe before. The Lord of all men sent these animals for the peasants as well as for the prince. God will not let His people be oppressed. He will assist us in our undertaking, and we will execute it with caution."—Quoted in Hammond: *Village Labourer*, p. 190.

who had no land and who had to live by working for capitalists. The former was brought about as the result of the commercial enterprise and the victories in war of two or three centuries. The latter was provided by the dispossession of the yeomanry of England—the yeomanry that had won England's battles and had laid the basis of the wealth that others had appropriated.

The fundamental characteristic of the factory system is the employment of masses of people by those who own the factories. From that basis has sprung the great technical developments that have made the last two centuries in this respect the most wonderful in the world's history. The congregation of numbers of workers into one building made possible the division of labor. The division of labor, in its turn, was the pre-requisite for the invention and development of machinery. It is impossible to invent a machine that will build a coach, as a craftsman built one. But it became a simple matter to invent machines to perform singly all of the movements necessary to the making of a coach. Moreover, many men, each working on one small job in the building of a coach, could turn out more coaches than the same number of men starting out to build a coach each. The concentration of labor, the division of labor and the invention of machinery meant the beginning of mass production.\*

But the mass production of commodities meant also the mass production of misery. In the dispossessed men of the country and the ruined small manufacturers of the towns, the new industrial capitalists found a vast army from which to pick and choose—not necessarily the strongest, but at any rate the cheapest and most subservient of workers. But, in the far vaster army of women and children, the employers were able to find workers still more subservient, because much weaker, and the cheapest of all. And, if the weaker were necessarily the sooner to be discarded, there was a huge reservoir from

\* The most important industry was, of course, the textile and it is this industry that furnishes the best example of the influence of concentrated production upon invention. Inventions alternated between the spinning and weaving branches of the industry. After John Kay invented the flying-shuttle in 1738, spinners could not keep pace with weavers. Then, in 1764, Hargreaves turned out his "Spinning Jenny"—a wheel that turned 16 spindles. Each jenny used would thus put 15 spinners out of work. Other inventions, by Arkwright and Crompton, made it possible for one person to look after hundreds of spindles. Spinning was thus far in advance of weaving—until Cartwright invented his power-loom in 1785. Some idea of the immense growth of the cotton industry is given by these figures: in 1750, less than 3,000,000 pounds of cotton wool were imported into England; in 1815, 100,000,000 pounds were imported.



being found with a net for poaching in any forest, chase or park.<sup>25</sup> A manifesto in a Bath paper was at once a reply to this Act and an evidence that the poachers were not criminals but men fighting for the preservation of their lives and liberties.\*

In such a way as this did thousands of Englishmen become landless men. Their patrimony passed into the possession of a few landlords and capitalist farmers. Pheasants had become more important than children—except in the factories of the new industrial towns where their tears and sweat were transmuted by the potent alchemy of "laissez-faire" into wealth and profits for the few.

**3.—LAISSEZ-FAIRE.**—England had vanquished all rivals. She was mistress of the seas and the ruler of a vast empire upon which even then the sun never set. For three centuries English sailors had risked and given their lives navigating new oceans, and discovering new lands, where colonies had been founded and whence wealth had rolled into the coffers of merchant princes and merchant companies. All of the vast wealth that had been created and accumulated benefited the bulk of the people not a whit. The few rich were richer than they were in 1500; but there were less who were comfortably off and the masses were poorer. The promise of the age of the overthrow of feudalism had been belied. The common man of George III's reign was no freer than his forefathers in that of Elizabeth. He certainly had no more of this world's goods, even if more of those of the next were promised him by such as William Wilberforce. And the lot of the feudal serf of the 13th century was surely preferable to that of the industrial slave of the 19th—at least until the latter learned the necessity of revolt.

Two things were necessary for the creation of the factory system and for the consummation of the economic development that we call the **Industrial Revolution**. They were the concentration into the hands of a few of the capital used and to be used in manufacture and the emergence of a class of people

\* The Manifesto ran: "Take Notice.—We have lately heard and seen that there is an act passed, and whatever poacher is caught destroying the game is to be transported for seven years.—This is English Liberty!

"Now we do swear to each other that the first of our company that this law is inflicted on, that there shall not be one gentleman's seat in our country escape the rage of fire. The first that impeaches shall be shot.

You may think it a threat, but they will find it a reality. The Game Laws were too severe before. The Lord of all men sent these animals for the peasants as well as for the prince. God will not let His people be oppressed. He will assist us in our undertaking, and we will execute it with caution."—Quoted in Hammond: *Village Labourer*, p. 190.

who had no land and who had to live by working for capitalists. The former was brought about as the result of the commercial enterprise and the victories in war of two or three centuries. The latter was provided by the dispossession of the yeomanry of England—the yeomanry that had won England's battles and had laid the basis of the wealth that others had appropriated.

The fundamental characteristic of the factory system is the employment of masses of people by those who own the factories. From that basis has sprung the great technical developments that have made the last two centuries in this respect the most wonderful in the world's history. The congregation of numbers of workers into one building made possible the division of labor. The division of labor, in its turn, was the pre-requisite for the invention and development of machinery. It is impossible to invent a machine that will build a coach, as a craftsman built one. But it became a simple matter to invent machines to perform singly all of the movements necessary to the making of a coach. Moreover, many men, each working on one small job in the building of a coach, could turn out more coaches than the same number of men starting out to build a coach each. The concentration of labor, the division of labor and the invention of machinery meant the beginning of mass production.\*

But the mass production of commodities meant also the mass production of misery. In the dispossessed men of the country and the ruined small manufacturers of the towns, the new industrial capitalists found a vast army from which to pick and choose—not necessarily the strongest, but at any rate the cheapest and most subservient of workers. But, in the far vaster army of women and children, the employers were able to find workers still more subservient, because much weaker, and the cheapest of all. And, if the weaker were necessarily the sooner to be discarded, there was a huge reservoir from

\* The most important industry was, of course, the textile and it is this industry that furnishes the best example of the influence of concentrated production upon invention. Inventions alternated between the spinning and weaving branches of the industry. After John Kay invented the flying-shuttle in 1738, spinners could not keep pace with weavers. Then, in 1764, Hargreaves turned out his "Spinning Jenny"—a wheel that turned 16 spindles. Each jenny used would thus put 15 spinners out of work. Other inventions, by Arkwright and Crompton, made it possible for one person to look after hundreds of spindles. Spinning was thus far in advance of weaving—until Cartwright invented his power-loom in 1785. Some idea of the immense growth of the cotton industry is given by these figures: in 1750, less than 3,000,000 pounds of cotton wool were imported into England; in 1815, 100,000,000 pounds were imported.



which substitutes could be drawn. No wonder is it that the world was regarded as the best of all possible worlds and one firmly based on reason!

In the textile industry, much, if not most, of the spinning and weaving had been done, before the enclosures, by men, women and children, in their homes in the villages at nights, after their work in the fields was finished. The enclosures took away both the homes in which the spinning and weaving were done and the fields whose produce was necessary to supplement the pittance earned by the spinners and the weavers. The same development which had expropriated the farmers had also taken the cotton industry out of the hands of the small producers and presented it to those who had the capital to employ the disinherited.

We have been made familiar with the conditions under which the disinherited and their children worked under the new industrial system—the children working twelve-hour shifts, pauper children supplied by parishes, women working in factories and mines, men unemployed or working for a mere pittance, thousands ousted by the cheap labor of women or children and by the machines—the whole leaving an indelible mark on the physique of 19th and 20th century Englishmen. The reaction of revolt against such conditions took two forms: machine-breaking by the Luddites, who saw the source of all their misery in the machines, and the formation of unions. Against both the Luddites and the unionists the government found fresh scope for repressive measures. Anti-Combination Laws were passed making unions illegal. The men who had been driven off the land found only starvation facing them also in the towns. And of the rebels of country and town—poachers and unionists and Luddites—thousands were transported to New South Wales.

4.—**THE AGE OF REASON.**—If there was a place for everybody in the 18th century there was also a religion for everybody. For the dispossessed farmers and the out-of-work proletarians of the towns there was Methodism, bred of misery, poverty and hopelessness and preaching a quiescence that probably saved England from revolution. For the ruling classes there was an Anglicanism that was eminently adapted to an age of reason.

Anglicanism, besides providing a badge of respectability for those who occupied the best pews, was embodied in a commercial institution that enjoyed some profitable monopolies. There were tithes and there were fees for marriage and registration of births and deaths—for one could not be born, could

not be married, could not die outside of the Church of England. Moreover, it was a kind of masonic lodge—military, civil and political office was open only to its members. And Anglicanism did not make any demands of piety, enthusiasm or emotion from those who regarded religion as a fable that was quite useful in keeping the lower orders in their places.

The clergy were closely wrapped up with ruling circles and the aristocracy. In a modern Americanism, the profession of a clergyman was a "racket." The richest "livings"—and the incomes, it must be remembered, were from compulsory tithes—were the prizes of intrigue, subservience or influence. And one need not be content with one "living." One could hold a number of "livings", live in London or travel on the Continent and pay\* curates to look after the spiritual needs of parishioners. "In his 'Legacy to Parsons,' Cobbett, quoting from the 'Clerical Guide,' showed that 332 parsons shared the revenues of 1496 parishes and 500 more shared those of 1524. Among the pluralists were Lord Walsingham who, besides enjoying a pension of £700 a year, was Archdeacon of Surrey, Prebendary of Winchester, Rector of Calbourne, Rector of Fawley, perpetual Curate of Exbury, and Rector of Merton; the Earl of Guildford, Rector of Old Alresford, Rector of New Alresford, perpetual Curate of Medsted, Rector of St. Mary, Southampton, including the great parish of South Stoneham, Master of St. Cross Hospital, with the revenue of the parish of St. Faith along with it. There were three Pretymans dividing 15 benefices, and Wellington's brother was Prebendary of Durham, Rector of Bishopwearmouth, Rector of Chelsea, and Rector of Therfield. . . . In 1812, out of 10,000 incumbents, nearly 6000 were non-resident."<sup>42</sup>

The severity of the laws could not prevent poachers from poaching or workers and unemployed from organising against the masters and the machines that were crushing them. Thousands of poachers were convicted year after year—many of them mere boys of less than 18—and transported for seven years, for 14 years, for life. Men continued to be transported for forming combinations. Nor could transportation or hanging abolish crime—in an age when its only alternative was starvation. The ruling classes of England failed. Failed—for it was a definite programme upon which they had embarked, a programme based on accepted principles. The motive force of that programme was "the belief that, as the poor were becoming poorer, only a system of punishment that was becoming more brutal could deter them from crime."<sup>44</sup>

\* £50 a year for one church and £60 for two churches was good pay!



Edmund Burke\* gives the classical exposition of the philosophy. "Good order is the foundation of all good things. To be enabled to acquire, the people, without being servile, must be tractable and obedient. The magistrate must have his reverence, the laws their authority. The body of the people must not find the principles of natural subordination by art rooted out of their minds. They must respect that property of which they cannot partake. They must labour to obtain what by labour can be obtained; and when they find, as they commonly do, the success disproportioned to the endeavour, they must be taught their consolation in the final proportions of eternal justice." Such was Burke's epitome of the philosophy. William Wilberforce,\*\* who was greatly concerned about black slaves—often much better off than the white slaves in England—has left, for our delectation, an expression of his admiration for the same philosophy. "The poor," he said, "are not liable to be puffed up by the intoxicating fumes of ambition and worldly grandeur. They are less likely to be kept from entering the straight and narrow way, and when they have entered to be drawn back again or be retarded in their progress, by the cares or the pleasures of life. . . . I might here enlarge with pleasure on the unrivalled excellence, in this very view, of the constitution under which we live in this happy country; and point out how, more perhaps than any which ever existed on this earth, it is so formed, as to provide at the same time for keeping up a due degree of public spirit, and yet for preserving unimpaired the quietness and comfort and charities of private life; . . . In whatever class or order of society Christianity prevails she sets herself to rectify the particular faults, or, if we would speak more distinctly, to counteract the particular mode of selfishness, to which that class is liable. Affluence she teaches to be liberal and beneficent; authority, to bear its faculties with meekness, and to consider the various cares and obligations belonging to its elevated station as being conditions on which that station is conferred. Thus, softening the glare of wealth and moderating the insolence of power, she renders the inequalities of the social state less galling to the lower orders, whom also she instructs, in their turn, to be diligent, humble, patient: reminding them that

\* In his *Reflections on the Revolution in France*, quoted by Hammond, p. 208.

\*\* Wilberforce set up a Society for the Suppression of Vice—popularly known as the Vice Society—which made it its chief concern to see that every infringement of every law repressive of free-speech or the liberty of the subject should be punished.

their more lowly path has been allotted to them by the hand of God; that it is their part faithfully to discharge its duties, and contentedly to bear its inconveniences; that the present state of things is very short; that the objects, about which worldly men conflict so eagerly, are not worth the contest; that the peace of mind, which Religion offers to all ranks indiscriminately, affords more true satisfaction than all the expensive pleasures which are beyond the poor man's reach; that in this view, however, the poor have the advantage, and that, if their superiors enjoy more abundant comforts, they are also exposed to many temptations from which the inferior classes are happily exempted; that, 'having food and raiment, they should be therewith content,' for that their situation in life with all its evils, is better than they have deserved at the hand of God; finally, that all human distinctions will soon be done away, and the true followers of Christ will all, as children of the same father, be alike admitted to the possession of the same heavenly inheritance."

We can only reiterate: if there had not been thousands of rebels in 18th and 19th century England, not only against the material conditions, but also against such soporific philosophy, we today should have to be ashamed of our ancestry!

It was truly an age when sentiment was not allowed to interfere with the dictates of reason. The devotees of the Goddess of Reason had seen the necessity for numerous hangings in order to safeguard the best of all possible constitutions and reason forbade them to shed a tear or to relent one jot. They were true noblemen, prepared to contemplate suffering without a tremor and, since it was necessary, without regret or remorse.

Eighteenth century London became known as "the City of the Gallows."<sup>40</sup> At Tyburn, at Finchley Common, at Wimbledon, at Blackheath, along the Thames—or even in the city streets, for often executions took place on the spot where crimes had been committed—the bodies, often in chains could be seen of those who in some way or another had fallen foul of the "law." "Yesterday morning"—we may take an example of a day's executions from the London "Evening Post" for October 9, 1782<sup>41</sup>—"about nine o'clock, the following malefactors were brought out of Newgate and carried to Tyburn in three carts, where they were executed according to their sentences, viz.: Henry Berthard, for feloniously personating one Mark Groves, the proprietor of £100 three per cent annuities, and trans-



ferring the same as if he was the real owner thereof; William Jones, for stealing in a warehouse, in Aldersgate Street, a deal box containing a quantity of haberdashery goods; Peter Verrier, accomplice with Charles Kelly, executed for burglary in the house of Mrs. Pollard, in Great Queen Street; William Odem, for robbing two women in Spawfields; Charles Woolett, for robbing Bernard John Cheale, on the highway, of a metal watch; John Graham, for feloniously altering the principal sum of a bank note of £15, so as to make the same appear to be a bank note of £50, with intent to defraud; Charlotte Goodall and John Edmonds, for stealing in the dwelling house of Mrs. Fortesque, at Tottenham, where she lived as a servant, a great quantity of plate, linen, &c.; Thomas Cladenboul, for assaulting Robert Chilton on the highway and robbing him of a gold watch; John Weatherley and John Lafee, for feloniously and treasonably coining and counterfeiting the silver moneys of the realm called shillings and sixpences. They all behaved very penitent."

Even by suicide one could not cheat the gallows—there still remained the body to be hanged, as it frequently was! "After the Lord George Gordon riots of 1780, the gallows was carried about from street to street of the city, and the condemned men were hanged on the spot pointed out by the witnesses as the scene of their outrages."<sup>48</sup> According to authorities quoted by Barton,<sup>49</sup> between 1771 and 1783, 467 persons were hanged in London and Middlesex alone—and "executions were, comparatively, almost as common in the country as they were in the metropolis." In 1785, there were 103 executions for the whole country! From 1801 to 1820, 1697 people were executed in England and Wales! And yet it is only with France that it is the custom to associate the term "the reign of terror."\*

Execution by burning was not abolished till 1789! Before that, women could be burned "for killing a husband or a master or for coining."<sup>50</sup> In 1788, a woman, convicted of counterfeiting, was strangled and burned. Another, in 1726, was burned alive—the "fire reaching the hangman's hands, he let go the rope by which she was to have been strangled, and the

\* It should not be imagined that we have to put this callousness down to the spirit of the age or that the rulers of England knew no better. "London itself stood without a rival among all the capital cities of Europe in its display of public executions, just as it did in the abominations of prison life. . . . In all the seven provinces which constituted the Dutch Republic, there were seldom more than five or six executions in the course of a year."—Barton, pp. 222-223.

flames slowly consumed her as she pushed the blazing faggots from her, rending the air with her agonised cries."<sup>51</sup>

Up till 1820, women were flogged by order of a court, or put in prison, at the whim of the authorities.\* Flogging, in the Navy and the Army, was the common punishment. General Sir Charles Napier,<sup>52</sup> tells of what he saw when a young officer. He "frequently saw 600, 700, 800, 900 and 1000 lashes sentenced by regimental courts-martial; and generally every lash inflicted. . . . I then often saw the unhappy victim of such barbarous work brought out from the hospital three and four times to receive the remainder of his punishment, too severe to be borne without danger of death at one flogging and sometimes I have witnessed this prolonged torture applied for the avowed purpose of adding to its severity. On these occasions it was terrible to see the new tender skin of the scarcely healed back again laid bare to receive the lash. I declare that, accustomed as I was to such scenes, I could not on these occasions bear to look at the first blows: the feeling of horror which ran through the ranks was evident, and all soldiers know the frequent faintings that take place among recruits when they first see a soldier flogged."

There were officers who made a study of the best ways of inflicting the greatest amount of torture with the number of lashes allowed by the sentence—such as distributing "the lashes from the poll of the neck to the heel; thus flaying the shoulders, posteriors, thighs, and calves of the legs, multiplying the torment enormously; but I believe it was done, and legally, too, according to the wording of the sentence which ordered or permitted such cruelty." In the navy, the "cat was altogether more formidable than the military one, being made of a piece of rope thicker than a man's wrist, five feet in length all over, three of which were stiff and solid stuff, and the remaining two feet ravelled into hard twisted and knotted ends."<sup>53</sup>

This was the school in which Phillip was educated, and we can expect that the horrors of execution and flogging would be continued in this new country—even though Phillip himself showed that he was often in favor of the mitigation of harsh sentences. He granted many reprieves, and Hunter and King followed his example. Sir Joseph Banks remonstrated with King because of the latter's clemency. "There is," he wrote to King in 1804, "only one part of your conduct as Governor which I do not think right—that is, your frequent reprieves. . . . Circumstances may often make clemency necessary—I mean those of

\* When the Bill for the abolition of flogging of women was before the House of Lords, not one Bishop voted for it!



suspected error in conviction, but mere whimpering soft-heartedness never should be heard."<sup>54</sup>

Not only Banks frowned on "whimpering soft-heartedness." In 1810, a Bill was introduced into, and passed the House of Commons to substitute transportation for the death penalty for stealing from shops. But it was defeated in the House of Lords, the Archbishop of Canterbury and six bishops voting against it! And the famous Paley, author of a "Moral and Political Philosophy" and "The Evidences of Christianity," approved of the "wisdom and humanity" of the English law.

That wisdom and that humanity were exhibited in such cases as those of the child of ten who was sentenced to death for secreting notes at the Chelmsford Post Office; of the boy of fourteen who was hanged for stealing at Newport in 1814; or of the women of 19 years, who was taken and hanged because she had picked up from a counter a piece of linen. Her children were naked and starving. She wished to give them some food. And she was hanged—her baby sucking at her breast as she rode in the cart for Tyburn! . . .

Is there any man or woman who, even today, after a lapse of over a hundred years, can read of such judicial crimes as these without being stirred by hatred of the perpetrators and by pity and tears for their victims? "Is it not clearly a fact," asks the late Professor Wood, "that the atrocious criminals remained in England, while their victims, innocent and manly, founded the Australian democracy?"<sup>55</sup> We wonder whether all who remained in England were not totally depraved, conscienceless and spiritless. From the jury who found the guilt, the judge who passed the sentence, and the Archbishop who sanctioned it, to the driver of the cart to Tyburn and the soldiers who stood around and watched a baby plucked from its mother's breast so that its mother might die, not a word or gesture of manhood! Not one was prepared even to die with her. Were all the men already at Botany Bay?

N.B.—Notes to this chapter are at end of Book II.

## Chapter VI.

### OFFICERS AND GENTLEMEN

My good blade carves the casques of men,  
My tough lance thrusteth sure,  
My strength is as the strength of ten,  
Because my heart is pure.

—Tennyson: Sir Galahad.

1.—Phillip and the Marines; 2.—Courts Martial; 3.—Martial Law; 4.—New South Wales Corps; 5.—The Rum Traders; 6.—The Defeat of King.

**N**EW SOUTH WALES was founded as a penal settlement. As far as the government of the day was concerned that was to be its main, if not its sole, object.<sup>1</sup> But, in the nature of the circumstances, a penal colony it could not remain. Free men and women must needs have come out here. Officials of the administration and members of the military forces would inevitably remain here. And convicts, their term of transportation completed, would seek and find prospects here for a freer and fuller life for themselves and their children, than had been theirs in the old countries. Moreover, the distance from England made return difficult if not impossible for most. Phillip himself saw New South Wales as a potentially free and prosperous country and he continually urged the sending out of free emigrants. New South Wales could not have remained a penal settlement. Within almost the shortest possible time from the foundation of the colony a native-born Australian\* was voicing a nascent nationalism and singing of

\* William Charles Wentworth, born at Norfolk Island in 1793, in poem written at Cambridge. (See below.)

1.—Notes to this chapter are at end of Book II.



an Australia that was already "the new-born glory of the southern skies" and was to become "a new Britannia in another world."

But there was a danger that New South Wales would become a military despotism. The power of the military officers was great enough to bring to frustration the plans of the first three governors and to force their withdrawal. It was finally powerful enough to depose the fourth governor, to send him away under arrest and to usurp his authority. The over-weening arrogance of the military officers combined with their greed to create for themselves a trade monopoly and to make of New South Wales a close preserve from which they extracted much profit for themselves and in which they were the cause of much misery to others. Four governors could not curb them—against each of the four they were victorious.

**1.—PHILLIP AND THE MARINES.**—Not the least of Phillip's difficulties were those that the officers of the marines created for him. The marines provided the first garrison for New South Wales and their commander was Lieutenant-Governor of the colony.

The marines had been selected as the corps to provide the first garrison and, in his letter to the Lords Commissioners of the Treasury (18/3/1786), ordering the preparation of the First Fleet, Lord Sydney directed the sending and stationing of three companies of them in New South Wales. He urged, in a letter to the Admiralty, under whose authority the marines served, that, if possible, the men sent should be volunteers. The period of service was to be for three years.<sup>2</sup> In certain respects, at any rate, Lord Sydney was solicitous of their needs. He urged that "200 females" be provided as "companions for the men" and they were to be conveyed "to the new settlement . . . from the Friendly Isles, New Caledonia, etc., which are contiguous thereto, and from whence any number may be procured without difficulty."\* He urged this because "without a sufficient proportion of that sex it is well-known that it would be impossible to preserve the settlement from gross irregularities and disorders."<sup>3</sup> We must, however, in justice to Lord Sydney, hasten to add that, in his instructions to Phillip, he ordered him to "take especial care that the officers who may be employed upon

\* Matra had made this recommendation in his "Proposal" and Sydney in this point, as in others, was merely echoing him. Matra said: "One ship may, if thought proper, be despatched to New Caledonia, Otahelto, and the neighbouring islands to procure a few families there, and as many women as may serve for the men. . . . There is every reason to believe they may be obtained without difficulty."—Records, vol. 1, pt. 2, p. 3.

this service do not, upon any account, exercise any compulsive measures, or make use of fallacious pretences, for bringing away any of the said women from the places of their present residence."<sup>4</sup> It says much for Phillip's humanity that he made no attempt to carry out this part of his instructions. "I am certain," he reported, "your Lordship will think that to send for women from the islands, in our present situation, would answer no other purpose than that of bringing them to pine away in misery."<sup>5</sup>

The command of the marines was given to Major Robert Ross who was also commissioned (24/10/1786) as Lieutenant-Governor. In his commission, he was ordered "to observe and follow such orders and instructions from time to time as you shall receive from us [George III], our Governor of the said territory for the time being or any other your superior officer."<sup>6</sup> Because of later happenings it is necessary to remember this and also the directions given in a letter to the Admiralty to the effect that the marines were to "be immediately subordinate to the direction" of the Home Department. "It is his Majesty's pleasure," wrote Sydney, "that they should be directed after their arrival at New South Wales to follow such orders and directions as they may receive from his Majesty through his Principal Secretary of State for this Department."<sup>7</sup> Instead, however, of obedience to orders given, Phillip received from the officers of the marines, urged and aided by their commanding officer, disobedience, defiance and sabotage. If Major Ross had succeeded in his campaign of opposition towards Phillip and his plans, the attempt to found a colony would have failed and Phillip would have had to lead his expedition back home. If Phillip had been less conciliatory, or if he had been a Bligh, he would probably have been taken home by Ross, under arrest. The stupidity of the Home government in appointing a man as nominal Governor and giving full control over the armed forces, and thus real power, to another almost wrecked the colony in its first few months. Diarchy is a form of government of most unstable equilibrium.

According to Ross, the trouble between himself and Phillip began on the way out. He was "much hurt," he wrote to Secretary Stephens,<sup>8</sup> because Phillip had not told him before leaving the Cape of his intention of sailing ahead in the "Supply." This had prevented his distributing the marines more evenly among the ships. The same letter is filled with complaints and grumbings. No defences were erected behind which refuge could be taken in case the natives made a surprise



attack—which, wrote Ross, “seems to me, from all I have seen, to be the only danger we have to apprehend.” And he arrived at the conclusion that the natives were not “that harmless, inoffensive race they have in general been represented to be.”

His opinions of the country itself were not very high. He had not been far from the settlement when he wrote but, after listening to others, “sorry am I to say that the accounts are by no means of a flattering kind.” The land was rocky and barren, the timber poor and the “country seems totally destitute of everything that can be an object for a commercial nation, a very fine harbour excepted.” We are glad of the exception.

Ross hastens to add that that is his own opinion. But he does so only in order to make a hit at Phillip. “The Governor’s” [opinion], he says, “I am acquainted with, as he has never done me the honor of informing me of his or asking me for mine; neither has he made me or any other person that I know of acquainted with any part of the intentions of Government, nor have I been let into any part of his plan, which will, I hope, be a sufficient apology for the very lame accounts in my power to give their Lordships, independent of what I have already said.” There were complaints that Ross had to add about lightning and earthquakes, bad spirits—he meant those of a more material character than his own—short rations, shortage of clothing and stationary, and—Phillip. He was much concerned about the possibility that the supply of “grog” be cut off. If it were, he said, “I dread the consequences, and must pray [he was writing to the Secretary to the Admiralty] that before such an event takes place, should it be so intended, their Lordships will order the detachment to be relieved, and shall hope I may be permitted to share with them in the same indulgence.” From which we may assume that Major-Commandant Ross was not of the stuff of which heroes are made.\*

“There is not a man in this place,” Ross wrote in a private letter to Nepean, “but wishes to return home, and indeed they have no less than cause, for I believe there never was a set of people so much upon the parrish as this garrison is, and what little we want, even to a single nail, we must not send to the Commissary for it, but must apply to his Excellency, and when we do he allways says there is but little come out, and of course it is but little we get, and what we are obliged to take as a mark of favor. . . . This country will never answer to settle

\* Nor was he efficient. It will be remembered that Phillip reported from Tenerife that the marines had gone on board without ammunition. Major Ross was their commander!

in, for altho’ I think corn will grow here, yet I am convinced that if ever it is able to maintain the people here it cannot be in less time than probably a hundred years hence. I therefore think it will be cheaper to feed the convicts on turtle and venison at the London Tavern than be at the expense of sending them here.”<sup>10</sup> From all of which it will be gauged that Major Ross was also not of the stuff of which pioneers are made, and that, besides being a hard man to get on with, was also a false—a very false—prophet!

Phillip received very little help from the officers of the Marines.\* “Most of them,” he complained—if Phillip’s half-apologetic reports may be called complaints—“have declined any interference with the convicts, except when they are employed for their own particular service.” He had asked them soon after the landing to say a word of encouragement to convicts who they saw were diligent and to warn or punish those who were otherwise. But, “officers did not understand that any interference with the convicts was expected, and that they were sent out to do more than the duty of soldiers.” Phillip thought it necessary, he told Lord Sydney in one of his first despatches, to mention “that officers coming out may know that a young colony requires more from officers than garrison duty.” He pointed out, too, that the officers were disappointed at not being granted land. As a result, they would be “obliged to make their minds up as to their staying in the country or returning, before they can know what the bounty of the Government intends them.” They felt this as a hardship, reported Phillip, and, therefore, declined to interfere with the convicts. Australia’s first strike thus seems to have been that of the officers of the Marines!

But it was not only as warders that the officers objected to serve. They did not like sitting as members of the Criminal Court—“for which they are not paid.”

It was in connection with judicial procedure that the first serious dispute arose, during which some of the officers were placed under arrest—not however by the Governor, but by Major Ross. The case was that of Private Joseph Hunt who was accused of striking Private William Dempsey. The prisoner was

\* They were: Major Commandant, Robert Ross; Captains, James Campbell, John Shea; Captain-Lieutenants, James Meredith, Watkin Tench; First-Lieutenants, George Johnston, John Johnstone, John Creswell, James Maitland Shairp, Robert Kellow, Thomas Davey, John Poulton, Thomas Timins; Second-Lieutenants, Ralph Clarke, William Faddy, William Dawes; Adjutant Second-Lieutenant, John Long; Quatermaster First-Lieutenant, James Furzer, Judge Advocate, David Collins.



found guilty and, being given a good character by Captain-Lieutenant Tench and Lieutenants Poulden and Timins, was sentenced by the Court\* "either to ask public pardon of William Dempsey . . . or to receive one hundred lashes on his bare back."

It was not a serious case and the Court treated the matter lightly. But the sentence did not please Major Ross. He objected to the double-barrel sentence. The prisoner, he claimed, should not have the power or privilege of choosing a punishment. He therefore asked Captain Tench to have the Court reconsider their sentence—"to get it altered to either one or the other of the sentences, I did not care which." The Court sat again and confirmed its original sentence. Whereupon Ross officially ordered the Court to reconsider and alter its decision. The Court refused, on the ground that, according to regulations, "no sentence given by any Court-Martial, and signed by the President thereof, is liable to be revised more than once." To this Ross replied that, as their first sentence, giving a choice of punishment, was no sentence at all, there could be no talk of there having been a revision. The Court was adamant, however, and Ross placed all the officers comprising it under arrest!

When Phillip was informed, next morning, of these developments, he attempted to prevent a General Court Martial, which both Ross and the officers demanded. Because the fewness of the officers would have left the Marines in charge of the sergeants if, in addition to the officers under arrest, enough others had been taken to form a G.C.M., Phillip gave the sensible direction that the officers should return to duty until there were enough officers present to carry out all duties and to form a G.C.M. as well—if it should "be then required by either of the parties."

In a joint letter to the Governor, the officers concerned, while maintaining that only a G.C.M. could extricate them from the "ignominious condition" in which they had been placed, expressed their thanks to him. "The friendly and handsome part you have taken in endeavoring to reconcile the unfortunate difference of opinion which subsists between us . . . and Major Ross . . . demands our warmest and most respectful acknowledgments."

The disagreements between Ross and his officers did not cease with this settlement of the Hunt case. The former complained of the "shameful inattention of all the captains (Captain Campbell\*\* excepted) to the erecting the barracks for the companies;

\* Consisting of Captain-Lieutenant Tench (President), Lieutenants Kellow, Davey, Poulden and Timins.

\*\* Captain Campbell was a very close friend of Major Ross. In a letter

in place of which their attention seems to have been chiefly employed in the erecting houses and outhouses for themselves, their servants, and stock, otherwise I am convinced the whole of our men would long ere now have been comfortable in their barracks." Captain Shea, for one, maintained that such work was not a part of his duty. As a result, Phillip was obliged to issue an order that officers should attend to this duty.

Ross became convinced that Captain Tench was endeavoring to obstruct rather than help in the work of building barracks. Work was to be concentrated, it was decided, on the barracks of one company first—that of Captain Shea. But, sawyers working for Tench refused, they said on Tench's orders, to allow some rafters to be taken from their job. Tench denied giving such orders and Ross decided on a court-martial of the sawyers in order to find out whether Tench was telling the truth. From the evidence given, the Court was able to acquit the sawyers without casting any doubts on Captain Tench's veracity. In a letter to Secretary Stephens, Major Ross requested that Captain Tench be recalled.<sup>12</sup>

**2.—COURTS MARTIAL.**—With such bickerings as these evidencing that the Marine Corps was no happy family, it is not to be wondered at that Phillip was forced to report to Lord Sydney that "it is not in my power to restore that harmony which is so very requisite in our situation."

On October 1, Major Ross requested a General Court Martial to try Quartermaster Furzer "for neglect of duty, contempt, and disrespect to his commanding officer." Accordingly, the Governor issued a warrant summoning one. But the officers refused to sit on a General Court Martial, on the ground that they, as officers of the Marines, could only be commissioned to do so by an Admiralty order. The Judge-Advocate, Collins, agreed that they could not legally sit, but maintained that, because of the distance from England and of the necessity of their being the power to summon a G.C.M. in New South Wales, they should sit and apply for an indemnity for their action. Then Phillip set up a court of inquiry. Again the officers refused to act. They would have done so, they said, if a court of inquiry had been set up before the commission summoning a G.C.M. had been issued. But the practice was that a court

to Under-Secretary Nepean, written before they left England, requesting some advancement for Campbell, Ross wrote: "You, my dear sir, have no idea how much I am interested in this affair, nor how very severely I shall feel myself mortified if something or other cannot be done for him before we quit this country."



of inquiry should precede a court-martial and, as a court-martial had been summoned—although it couldn't sit—a court of inquiry could not be held! By trying to follow such reasonings we become as bewildered as Phillip was.<sup>13</sup> These were the men with which, and such were the conditions under which, he was trying to establish a colony—and this at a time when famine was beginning to threaten extinction! \*

The next conflict between Phillip and Ross arose over the question of successor to Captain Shea, who died on February 2, 1789, in the vacant captain-lieutenancy. The Governor remarked to Ross that, as First Lieutenant George Johnston was the senior first lieutenant, he should get the promotion. Without replying, Ross left the Governor and sent for Judge-Advocate Collins to whom he offered the command of Captain Shea's company, on condition that he gave up his appointment as Judge-Advocate of the Marines! As Collins was also the Judge-Advocate of the colony—a civil officer—the proposal of Ross was tantamount to interfering in the civil government. The Governor saw it as such, for it was impossible for Collins to carry out both duties. He protested to Lord Sydney “that the civil government of this colony may be very materially affected by directions of such a nature.” However, Collins declined the offer.<sup>14</sup>

It becomes quite evident, as one reads the records, that Major Ross was determined to put every obstacle in the way of Phillip's carrying out the task set him. He encouraged the officers, for example, to refuse to sit on a Criminal Court. The initiative was taken by his friend, Captain Campbell. In a trial of six marines charged with robbing the stores, one of the witnesses, Mary Turner, a convict, was considered to be guilty of perjury and ordered by the court to be detained by the provost-marshal. Later, however, the Judge-Advocate, considering there was not sufficient evidence, decided not to prosecute her. Campbell, hearing of this, professed to be indignant and demanded by what authority the charge had been dropped. The Judge-Advocate had told Campbell that if he was prepared to bring forward a charge and witnesses, Mary Turner would be brought to trial. This suggestion Campbell stated he considered an insult, informed Collins that it “effectually precluded Captain Campbell from sitting as a member of any criminal court that it may be necessary to assemble here and of which you are a part” and complained to Ross. He told the latter

\* When the officers wanted a G.C.M. in their dispute with Ross, it will be remembered they recollected nothing to prevent one from being held!

that as he had always understood that it was not compulsory for officers to sit on a Criminal Court he would in future decline to do so.

When informed by Ross of Campbell's decision, Phillip pointed out that the latter was refusing to carry out “what was most undoubtedly a part of his duty” and “desired that he would think seriously of the consequences.” Campbell remaining obstinate, the Governor told Ross to replace him by the officer next on the list. It was now the Major's cue. He “said that he did not see how that could be done, as he believed that I [Phillip] should find the officers in general of opinion that the sitting of officers as members of the criminal court was not a duty to which they were obliged to submit, but a service in which they had volunteered it, and added that he knew of no articles of war to compel them.” Phillip said that he “could hardly believe that such an opinion was general” but agreed to a court of inquiry to give an opinion on the Judge-Advocate's letter to Campbell that had been the cause of—or the excuse for—the rumpus. The court of inquiry met and—refused to give an opinion!

The adjutant was now, according to custom,\* to give to the Judge-Advocate the names of the officers next for duty on the criminal court. But Major Ross refused to allow him to furnish Collins with the names and asked that Phillip should send for the names. This was done, the names were given and amongst them was that of Campbell. He sat on the next criminal court! Before it sat, however, Phillip had spoken to some of the officers and pointed out to them that sitting upon such a court was part of their duty. He read to them the Act of Parliament and the Commission that established the court. They all stated “that they had never doubted its being a part of their duty.”

Immediately after this, however, Major Ross expressed his opinion that the officers still thought sitting in criminal courts

\* On the manner of assembling criminal courts, Phillip has this to say: “Those assembled on our first landing were composed of the senior officers of the detachment and of the Navy, the first court being given out in general orders, after which a roster was kept for that service by the adjutant of the detachment; and when it was necessary to assemble a court the Judge-Advocate sent to the adjutant for the names of the officers next for duty, whose names being inserted, and the precept officers next for duty, is then shewn to the different officers who signed and sealed by me, is then shewn to the different officers who are to compose the court, by the provost-martial, and which is always done one or two days before the court is to meet, the battalion orders of the day pointing out officers of the detachment who are for that duty.”—Phillip of Sydney, June 5, 1789.



was not part of their duty. The matter was put to the test. Ross was asked to assemble the officers and put the question to them individually. This was done and all the officers, with the exception of Campbell, stated that they considered sitting as members of a criminal court part of their duty.

It then reached the Governor's ears that Major Ross, at a meeting of officers on April 27, had characterised Phillip's action as oppressive. He therefore had the Judge-Advocate call some of the officers together and ask them a series of questions: Was such a meeting held? Did Major Ross use the term "oppressive" about the Governor's conduct? Did he ask the officers to join Captain Campbell in refusing to sit as a member of the court? The answers were, in the main, in the affirmative. "But as no legal inquiry could be made respecting the conduct of the officer to whom, as the Lieutenant-Governor and commandant of the detachment, I was naturally to look for support, and from whom the situation of this colony at the time called for an address of a very different nature, I did not think it proper," reported Phillip, "to direct any more officers to be sent for on that subject, unless Major Ross should desire it, when the officers informed him they had been examined respecting that meeting, and which they did as soon as they left the Judge-Advocate; and being asked what questions had been put to them, they desired to refer him to the Governor for the questions and their answers; but Major Ross has never mentioned that business to me, and I have therefore thought it best to let it rest in its present state."<sup>15</sup>

Major Ross had taken refuge in ignominious silence, to await the next opportunity to harass the Governor. In this instance he had failed to carry his point which surely aimed at nothing less than the prevention of the carrying on of the civil government.\*

It was not long before Major Ross had, or thought he had, another cause for complaint. Phillip, before going on a visit to Rose Hill, had given to Captain Collins orders about the employment of a certain convict who was, by the time he received the order, working on the west side of the Cove and, therefore, under the supervision of Major Ross. When Ross found out that the convict had left his work and gone elsewhere, on Collins's orders, he furiously maintained (1) that he had been

\* The Act of Parliament establishing the colony (27 George III, 1787) was quite clear on the composition of the Criminal Court. It was explicitly stated that it should consist "of the Judge-Advocate, to be appointed in and for such place, together with six officers of his Majesty's forces by sea or land." (Records of N.S.W., vol. 1, pt. 1, p. 69.)

insulted by Collins, (2) that he had been ignored as Lieutenant-Governor, and (3) that there had been interference with his command. He wrote a letter to Phillip demanding an explanation, requesting "that you will please to explain to me the line of conduct which, as Lieutenant-Governor of this settlement, you wish me either to preserve or follow," and stating that he would pursue such a line "at least till such time as a power superior to either of us shall determine the bounds of both, and redress our grievances." After giving a satisfactory explanation of the incident, Phillip replied to the request by Ross for the line of conduct he was to pursue that he only wished "that the peace of the settlement may not be disturbed and that you will be so good as to be a little more guarded in your expressions.\* . . . The time cannot be far distant when a legal inquiry can take place, and all complaints will then be attended to. Till when his Majesty's service requires some little forbearance on your part as well as on mine."<sup>16</sup>

About the same time,\*\* what may be regarded as Australia's first police force was established. It consisted of 12 convicts. For a number of months gardens had been robbed and poultry stolen nearly every night. Even the stores had often been broken into. The precarious position of the colony and the threat of its annihilation by famine made these robberies the more heinous, even though the same factors may help to explain their commission. To put a stop to them Phillip determined to appoint a "Watch". The 12 assembled every evening and patrolled the township all night. "No complaint was ever made of them," says Phillip, and "they were particularly cautioned against having any dispute with a soldier or sailor, and were promised to be rewarded in future if they were honest and vigilant, which they were, for they acted very properly on several occasions when they met with soldiers or sailors in the night, and they prevented many robberies." Regulations† governing

\* Ross had, for example, when a convict came to tell him that his time had expired [the papers of many of the convicts had not been sent out!], exclaimed, "Would to God my time was expired, too!"

\*\* August, 1789.

† The Regulations provided for authorisation to the Watch "to visit such places as may be deemed necessary for the discovery of any felony, trespass, or misdemeanor, and for the apprehending and securing for examination any person or persons that may appear to them concerned therein, either by entrance into any suspected hut or dwelling, or by such other manner as may appear expedient"; for the division of the township into four areas, each to be under the inspection of one person; for the prevention of trafficking by the convicts in their clothes or provisions; and



this pioneer police force were approved by the Lieutenant-Governor, Major Ross. The "Watch" was placed under the control of the Judge-Advocate.

One night a soldier was arrested, lodged in a guard-house, as many others before him had been, and next morning handed over to his officer. On this particular morning, Major Ross sent the adjutant to the Judge-Advocate, Captain Collins, with this message: "That he considered a soldier being stopped, when not committing an unlawful\* act, as an insult offered to the corps, and that they would not suffer themselves to be treated in that manner, or be controuled by the convicts, while they had bayonets in their hands." Informed of Major Ross's annoyance but not of his threat,\*\* Phillip sent for him and tried to show him the necessity for the watch—that necessity being pressing partly because of the continued robberies by soldiers, which Ross admitted. But the only reply that the Governor could get from him was "that it was an insult to the corps" and that soldiers had been put "under the command of the convicts." Phillip had to give in. "No other alternative was left me," he wrote, "but to withdraw the order respecting the soldiers, and consequently leave them at liberty to be about the gardens and the stores at all hours of the night, or run the risk of disputes between the soldiers and the watch; and it was not to be supposed that soldiers would quietly suffer themselves to be stopped by a convict watchman, after such declarations from their commandant, and which were known." Accordingly the order in dispute was withdrawn. Instructions were given that in future no soldier was to be stopped "unless he is found in a riot, or committing any unlawful act." But Phillip pointed out to the Home Office that the position was becoming intolerable and urged the sending out of an additional force and "the necessity of some change being made."<sup>17</sup>

3.—**MARTIAL LAW.**—The opportunity came in March, 1790, for Phillip to rid himself of Ross, at least for a time. Lieutenant

besides other matters, for the lodging in the nearest guard-house of "any soldier or seaman found stragling after the taptoo has beat, or who may be found in the convicts' huts."

\* Major Ross did not wait to consider whether or not the breaking of regulations approved by himself was an unlawful act.

\*\* "Here I must beg leave," reported Phillip to Lord Sydney, "that the last sentence, respecting the bayonets, was never mentioned to me till after this business was settled, for if it had I should not have been induced to have withdrawn the order, which directed the night-watch to stop a soldier, by so pointed a menace, for I should not have thought it could tend to the good of his Majesty's service."

King was recalled from Norfolk Island and Ross was sent there in his place.

Norfolk Island had been specifically mentioned in Phillip's original "Instructions." "Norfolk Island . . . being represented as a spot which may hereafter become useful, you are," he was ordered, "as soon as circumstances will admit of it, to send a small establishment thither to secure the same to us, and prevent it being occupied by the subjects of any other European power." Phillip lost no time in carrying out this instruction. On February 14, 1788, that is within three weeks of his landing at Sydney Cove, he sent Lieutenant Philip Gidley King, of H.M.S. "Sirius," to Norfolk Island, with a small party consisting of "a petty officer, surgeon's mate, two marines, two men who understood the cultivation of flax, with nine men and seven women convicts."<sup>18</sup> They went on the "Supply" and arrived at the island on February 29. Lieutenant King reported that the island was closely wooded, that the soil was "a rich black mould" and that there was a good supply of water. From the report, Phillip came to the conclusion that the island would be "a very valuable acquisition", able to supply masts and yards for ships. On the way out a small island had been seen and Lieutenant Ball, commanding the "Supply" examined it on the way back to Sydney. He called it Lord Howe Island, after the First Lord of the Admiralty.

By Phillip, King had been appointed "Superintendent\* and Commandant of Norfolk Island, and of the settlement to be made thereon," and instructed to cultivate the soil, find out its capabilities and study its climate. The "Supply" visited the island again in the following July and returned (August 26) bringing back a report from the Commandant. The landing had been made on the south-west end of the island, in a sheltered bay, but one where the landing was dangerous when a westerly wind was blowing. The soil was rich and the grain sown was growing luxuriously. Everybody was well housed, flax grew in large quantities and the live stock was flourishing. Phillip proposed to send out another detachment,\*\* and, on October 2, the "Golden Grove" sailed thither, with provisions and "a midshipman, two seamen, a sergeant, a corporal and five privates, with

\* He was later appointed Lieutenant-Governor of the Island by King's Commission dated January 28, 1790.

\*\* In the meanwhile, Norfolk Island had excited interest in England where a proposal was made to Lord Sydney (May, 1788) that a settlement be made there by the proposers to whom the island was to be given and to "their heirs forever."—Records of N.S.W., vol. 1, pt. 2, p. 141.



21 men and 11 women convicts."<sup>19</sup> This ship returning also brought back good news about the prospects for the success of the settlement at Norfolk Island.

As a result of such favorable reports, Grenville, who succeeded Lord Sydney, was of the opinion\* that Norfolk Island, and not Port Jackson, should have been the principal settlement. Phillip, however, pointed out that there was no harbor at Norfolk Island—a fact, he said, which prevented its being made the principal settlement, at least until it became self-supporting.<sup>20</sup>

As we have seen,\*\* Phillip sent several hundred people, in March, 1790, to Norfolk Island in order to husband the supplies in Sydney. It was with these that Major Ross went to take over the command from Lieutenant King whom Phillip intended sending to England to report on conditions in the new settlements. Phillip had a very high opinion of King. He was an officer of merit,<sup>21</sup> a very steady, good officer,<sup>22</sup> one "who has fully merited everything I can say in his favor,"<sup>23</sup> and of "great merit in his perseverance and good conduct while he commanded at Norfolk Island."<sup>24</sup> The Governor never lost an opportunity of recommending him for promotion.

Ross in his new demesne was monarch of all he surveyed. We have seen that the "Sirius" was wrecked.† Although most of the stores on it were landed, he considered the disaster a sufficient excuse to act the strong man. "Immediately on the ship's striking," he reported to Phillip, "I judged it necessary to issue an order forbidding all the inhabitants on the settlement from killing any stock of their own, or plundering any article of stock or provisions belonging to the public or to others, under pain of immediate death by hanging." The panic that appears to have seized the gallant major is more strikingly evidenced by King's account: "The instant the ship struck, Lieutenant-Governor Ross ordered the drums to assemble all the marines and convicts; martial law was then proclaimed, and the people were told that if anyone killed any animal or fowl, or committed any robbery whatever, they would be instantly made a severe example of."<sup>25</sup> Thus did Ross give Phillip an example of how to deal with robbers and those who disobeyed orders or encouraged others to disobey orders, as Ross himself had done in Sydney. And he got around any and all difficulties of holding a Court Martial or setting up a Criminal Court—by declaring martial law! Thus, on Nor-

\* Expressed in his first dispatch to Phillip, June 26, 1789, which, by the way, was also the first dispatch from England!

\*\* See above, pp. 136-7.

† See above, Chap. III.

folk Island Courts Martial could be held which would try not only members of the marines but anybody else as well. He was not, either, deterred from declaring martial law by any belief that he was not justified. He was no longer standing by the strict letter of the law. In fact, he was doubtful whether he had the authority, but he felt he could "trust to His Majesty and the British parliament for such indemnification as the case may require." Just as the Judge-Advocate had told him to do in Sydney!

Ross called together the officers who were on the island—naval and marine. They were to compose his council. They met on March 20 and passed a series of resolutions—proclaiming martial law; establishing authority for general courts martial; commandeering all provisions and live stock, except poultry; making marauding or plundering capital offences. A proclamation issued a week later made it also a capital offence to have in one's possession after "12 o'clock at noon" on "the 29th instant" any article saved from the wreck. Having received a report from Ross, Phillip agreed to the continuance of martial law, and it continued until the beginning of August.<sup>26</sup>

Ross believed in having things done in a most dramatic manner. This was his way of proclaiming martial law: "At eight o'clock in the morning, all persons on the island were assembled near the lower flagstaff, on which the Union was hoisted; the marines were drawn up in two lines, leaving a space in the centre, at the head of which was the Union. The colors of the detachment were then unfurled, and the "Sirius's" crew were drawn up on the right, and the convicts on the left, the officers being in the centre. The proclamation was then read, declaring that the island was to be governed by martial law until further orders. The Lieutenant-Governor next addressed the convicts, and after pointing out the situation of the settlement, he exhorted them to be honest, industrious, and obedient. This being concluded, the whole gave three cheers; and every person, beginning with the Lieutenant-Governor, passed under the Union flag, taking off their hats as they passed it, in token of an oath to submit to the martial law, which had then been declared."<sup>27</sup>

Apart from the fact that there was really no necessity for martial law, Major Ross acted in a very high-handed way in instituting it. In the first place, it appears that King was still commandant of the island, for the latter tells us that, when Ross arrived on the island, he requested King "to continue the command until my departure." Secondly, only the Governor could institute martial law. In a similar case, in 1815, Governor



Macquarie disallowed a declaration of martial law by his Lieutenant-Governor in Van Diemen's Land—and rightly, said Commissioner Bigge.<sup>28</sup>

With Ross away off in Norfolk Island, Phillip was still not free from clashes with him. We find him having to reply to complaints by Ross that his marines on the island were not receiving the spirits, shoes and blankets that were being issued to the marines in Sydney. Ross remained at Norfolk Island until King's return in November, 1791. He then left for Sydney arriving there on December 5. He left Sydney on December 13 for England, together with the marines of his detachment, which had been relieved by the New South Wales Corps.

4.—**THE NEW SOUTH WALES CORPS.**—On May 20, 1789, the Lords of the Treasury were informed by Sir George Yonge, Secretary of State for War, that it had been decided to raise a special corps of infantry to replace the marines in New South Wales and were requested to place the new Corps on the establishment. It was to consist of "four companies, each of one captain, one lieutenant, one ensign, three sergeants, three corporals, two drummers, and 67 private men, with the usual staff officers; to be commanded by a major having a company." The estimated annual cost of the Corps was £6054/13/-<sup>3</sup>/<sub>4</sub>. It was also decided that the major commanding and the three captains should raise their respective companies and receive "for each approved recruit the sum of three guineas."\* No recruit was to be under 5 feet 4½ inches in height, nor under 16 nor above 30.

Major Grose was appointed in June to the command of the Corps. He was given power to nominate the subalterns, the adjutant, the chaplain, and the quartermaster. The Corps was ready within three months. Major Grose endeavored to make of the Corps and his appointment to it an opportunity for promotion. "Should I be promoted to the rank of Lieutenant-Colonel," he wrote to Sir George Yonge, when it was proposed to raise two additional companies, "I will, without expense to the government, raise both the companies, reserving to myself the nomination of the captain and subaltern officers. Should it be thought expedient to add only a major to the corps without permitting me to succeed to any additional rank, I will raise the companies on conditions of receiving the levy money, nominating the captain and subaltern officers, and receiving from the captain appointed to a majority, five hundred pounds." This modest proposal was rejected. But the Corps was, from time to time, increased—

\* To provide bounties. The difference between what a recruit could be got for and the three guineas went into the pockets of the recruiter.

once by men from the marines who had remained in Sydney when Major Ross's detachment returned to England. At its maximum strength, it consisted of ten companies.

The Corps was ready to embark for Sydney in December, 1789. About a hundred were placed on board the transports of the Second Fleet and the remainder embarked on H.M.S. "Gorgon." In the same despatch in which Grenville acquainted Phillip of their proposed early departure, the latter was instructed to endeavor to enlist a company for the Corps from the ranks of the marines, whose detachment was to be relieved and who might be willing to remain in Sydney.\* The "Gorgon" sailed from England on March 15, 1791. Major Grose, however, did not sail on it. On June 19, 1790, an order had been issued withdrawing from the "Gorgon" a "detachment equal to two companies of the Corps." These were to "assist in the duties at Portsmouth until the arrival of the 29th Regiment." Major Grose remained behind with them.\*\* According to a return made in January, 1791, 115 officers and men of the Corps had sailed on the "Scarborough," "Neptune" and "Surprise,"† 25 were on the "Gorgon" and the remainder, 162, were at Forton Barracks. Grose did not leave England till July, 1791, when he sailed on the "Pitt," arriving in Sydney in February, 1792.

\* A company was formed by Phillip, early in 1792, and placed under the command of Captain-Lieutenant George Johnston. Johnston later became Major of the Corps, and it was he who placed Governor Bligh under arrest in 1808. He was court-martialed and cashiered.

\*\* To his own great satisfaction, evidently, for he had complaints to make about his accommodation on the "Gorgon." "As every comfortable situation in the ship," he wrote to Secretary Nepean (17.11.90), "seems to be occupied by the naval officers, who profess a positive resolution of messing by themselves, I hope your interference will cause the matter to be so regulated that if we are to live by ourselves an eligible place for our mess may be allotted. I have myself and a wife and family, whose comforts may probably cause me to be more anxious than I otherwise should be. If, however, we cannot be better accommodated I shall endeavor to make myself satisfied, although I believe I may say that I am the first officer of my rank who sailed with so few comforts."

† They arrived in Sydney towards the end of June, 1790. To Captain Hill, of the Corps, who sailed on the "Surprise," we owe a description of the conditions under which the convicts lived on the Second Fleet. In a letter sent from Sydney to a friend, he gives a description of the voyage which he asks to be brought to the attention of William Willberforce. "We left the Cape the 29th of April, and anchored in this beautiful harbour the 26th of June. Would I could draw an eternal shade over the remembrance of this miserable part of our voyage—miserable, not so much in itself, as rendered so by the villany, oppression, and shameful peccation of two of the masters. The bark I was on board of was, indeed, unfit, from her make and size, to be sent so great a distance; if it blew but the most trifling gale she was lost in the waters, of which she shipped so much that, from the Cape, the unhappy wretches, the convicts, were consider-



Death took its toll of the members of the N.S.W. Corps who were on the "Pitt." "A most malignant epidemical fever, which spread so rapidly among the sailors and soldiers, and in a degree so alarming, that for some time we were almost afraid to approach each other," was, reported by the captain of the ship, "Manning," from Rio, the cause of 47 deaths between England and that port.\* And Phillip had to report\*\* that no medicines or other necessaries had been despatched with the Corps.

In February, 1792, the "Pitt" arrived in Sydney, 120 of the male convicts on board being sick. A return made on March 26 gives the strength of the Corps, exclusive of officers, as 278—154 being stationed in Sydney, 67 at Norfolk Island and the rest at Parramatta. The officers of the Corps, most of whom have, for good or for ill or for neither, left their names in Australian history were, at that time, Francis Grose, Major-Commandant; Nicholas Nepean, William Hill, William Paterson and Joseph Foveaux, captains; John McArthur, John Townson, Edward Abbot, William Beckwith and John Thomas Prentice, lieutenants; Thomas Rowley, Lieutenant and adjutant; William Cummings,

ably above their waists in water, and the men of my company, whose berths were not so far forward, were nearly up to the middles. In this situation they were obliged, for the safety of the ship, to be penned down, but when the gales abated no means were used to purify the air by fumigations, no vinegar was applied to rectify the nauseous steams issuing from their miserable dungeon. Humanity shudders to think that of 900 male convicts embarked in this fleet, 370 are already dead, and 450 are landed sick and so emaciated and helpless that very few, if any, of them can be saved by care or medicine. . . . The irons used upon these unhappy wretches were barbarous. The contractors had been in the Guinea trade (that is the slave trade), and had put on board the same shackles used by them in that trade, which are made with a short bolt, instead of chains that drop between the legs and fasten with a bandage about the waist, like those at the different gaols; these bolts were not more than three-quarters of a foot in length, so that they could not extend either leg from the other more than an inch or two at most; thus fettered, it was impossible for them to move but at the risk of both their legs being broken. Inactivity at sea is a sure bane, as it invites the scurvy equal to, if not more than, salt provisions; to this they were consigned, as well as a miserable pittance of provisions, although the allowance by Government is ample; even when attacked by disease their situations were not altered, neither had they any comforts administered. The slave trade is merciful compared with what I have seen in this fleet; in that it is the interests of the masters to preserve the healths and lives of their captains; . . . in this, the more they can withhold from the unhappy wretches the more provisions they have to dispose of at a foreign market, and the earlier in the voyage they die the longer they can draw the deceased's allowance to themselves. . . . My feelings never have been so wounded as in this voyage, so much so, that I never shall recover my accustomed vivacity and spirits."—Histl. Records of N.S.W., vol. 1, pt. 2, pp. 366-371.

\* Seven seamen, thirteen soldiers, five soldiers' wives, five soldiers' children, fifteen convicts, two convicts' children.

\*\* On December 14, 1791.

John Clepham, John Piper and Neil McKellar, ensigns; James Bain, chaplain; Thomas Laycock, quartermaster, John Harris, surgeon; and Edward Laing, surgeon's mate. These were the men who were soon to set up for themselves a trading monopoly and to gain for the Corps, of which they were the shining lights, the designation of "The Rum Corps."\*

Grose was not long in the colony before he showed that he was to be a hindrance instead of a help to Phillip. With the colony living under almost famine conditions, Grose complained to Phillip of the unwholesomeness of the rations issued and asked for permission to charter the "Britannia", then in port, to go to Brazil or the Cape of Good Hope to buy supplies for the Corps and—especially—for its officers. This, Phillip replied, he could not do. The movements of the ship did not depend upon him but on the East India Company. What was asked was in effect to commandeer the "Britannia" or, rather, to allow Grose to do so, in order that it should be used entirely for the benefit of the officers of the N.S.W. Corps. "I see it daily at my own table," was Phillip's dignified rejoinder to Grose's complaint about the unwholesomeness of the rations, and "I cannot acquiesce with you in thinking that the ration served from the public stores is unwholesome; . . . I am sorry to see that it is neither so good nor in that quantity as I would wish it; and every means in my power has [been], and will be, taken to remedy the evil. . . . It is, I believe, nearly as good as what is issued to the army and navy in India, and I think that there can be little doubt but that an ample supply of provisions from Europe will arrive before the "Britannia" can return to this port."

With this Grose was not satisfied. What hurt him more than the paucity and "unwholesomeness" of the rations was the fact that Phillip had placed everybody in the colony—officer and gentleman, convict and man—upon an equal footing. He wrote to England, begging "interference in behalf of the officers and soldiers who are doing duty at this place." He was, he said, "unwilling, as I always shall be, to complain." But a right to complain he thought he had for "now whenever it happens that a short allowance is issued to the felons the soldiers' ration is also reduced, and that without the smallest difference or dis-

\* A few marines still remained in Sydney on duty. In October, 1792, they consisted of Lieutenants Poulden, Davey and Timins, three sergeants and 16 privates.



tion—the captain of a company, and the convict transported for life, divide and share and share alike whatever is served." He could not "imagine it was intended we should so equally partake of whatever miseries assail the colony." Thus spoke a gallant eighteenth century English gentleman.\* He evidently felt that men had been hanged for less than what Phillip was then doing. Grose also complained that while land grants were being made to convicts, none had been made to officers. Officers up till then had been allowed to cultivate blocks of land only on sufferance and no grants had been made to them.<sup>20</sup>

The very structure of the settlement in New South Wales favored militarism and fostered the emergence of a dictatorship by the military caste. The officers, firstly of the Marines and then of the N.S.W. Corps, controlled the force which formed the basis of the dominance of the regime. The early Sydney society could not provide an alternative force to that of the soldiers, as we have seen Phillip find out. The Governor had to depend on the military force, but had little control over it. The chief check upon the arrogance of the officers was their own anticipation of what direction the arbitration of the home authorities would take in any dispute between them and the Governor. And England was many thousands of miles away. Moreover, the military officers formed the dominant social class of the young community, and, as time went on and the free population grew, became more and more exclusive. It formed the basis of the later "Exclusives." Into its hands, too, was concentrated most of the wealth of the colony. And, by its control of the judicial system and the law courts, it was able, in another way, to maintain its dominance.

The colony as established in 1788 was intended by the British government to be nothing more than a penal settlement—a huge prison—in which the civil rights enjoyed by Englishmen at home were to be denied. There was to be no trial by jury—for convict, marine, or free man. Even when the number of free people increased, as the result of pardons and expiry of sentences of convicts and of free immigration, the system of trial was not modified. Trial by jury was not granted until 1829,

\* The contrasting attitude of Phillip is illustrated by Captain Collins: "The Governor, from a motive that did him immortal honour, gave up three hundred-weight of flour, which was his Excellency's private property, declaring that he wished not to see anything more at his table than the distinction of persons; and to this resolution he rigidly adhered, wishing that, if a convict complained, he might see that want was not unfelt even at Government House."

in civil causes, and 1833, in criminal cases, and even then it was optional, not becoming obligatory until 1847. The first Chief Justice began his sittings in 1824. Before that time the chief judicial officer was the Judge-Advocate, a military title, and the court before which accused persons were tried was the Criminal Court consisting of the Judge-Advocate and six military officers.\* "The bare appearance of this tribunal," wrote W. C. Wentworth in 1819, "has long been odious and revolting to the majority of the colonists. It is disgusting to an Englishman to see a culprit, however heinous may be his offence, arraigned before a Court clad in full military costume; nor can it indeed be readily conceived that a body of men, whose principles and habits must have been materially influenced, if not entirely formed, by a code altogether foreign to the laws of this country,\*\* should be able on such occasions to divest themselves of the soldier and to judge as the citizen."

The Judge-Advocate in that Court combined in his activities "the duties of a magistrate (who commits the prisoner upon investigations conducted by himself), of prosecutor, of juryman and of judge."† In such a court the rules of procedure and of evidence could not be adhered to and much of the discussion of the case was carried on, between the Judge-Advocate and the officers who composed the court, in secret, when they had "retired to an adjoining room," before the case was completed. It was only in 1820 after Commissioner Bigge had drawn attention to the undesirableness of this practice that they refrained from retiring until they were ready to consider the verdict. To nearly all intents and purposes the colony was under martial law and the Criminal Court was barely more than a court martial. It was, however, a little more than a court martial and attempts were made, as we shall see, to make it stand for something more than the wishes of a military clique.

Both free and convict were under the jurisdiction of this court. Holt, the Irish rebel,‡ has left a description of how it dealt with him. The convicts were terrified of it. Several of them committed suicide rather than face it and others fled into the bush. In April, 1788, an elderly woman convict was accused of stealing a flat-iron. She tried to commit suicide by hanging herself to the ridge-pole of her tent so that she would not have to face the court but, says Collins who tells the story, she "was,

\* A "Supreme Court of Civil Judicature" was set up in 1814.

\*\* Wentworth was then in England.

† Commissioner Bigge's report.

‡ See next chapter.



fortunately, discovered and cut down before it was too late! Before it was too late, that is, for the court to wreak its vengeance.

We have already referred to the case of Mary Turner and the controversy it excited between Collins and Campbell and Ross. In the letter that Collins wrote to Campbell he stated that he was not going to prosecute the woman as he did not think there was sufficient evidence but he was quite willing to bring her to trial if Campbell thought differently! And, in a later letter to the Governor, he stated that, as Campbell thought she ought to be brought to trial he proposed to bring her before the court the following week and "try her on a charge of wilful and corrupt perjury." In such way was "justice" administered in Sydney in 1788.

A government that did not exert itself very much to provide food and clothing for the colonists it sent out could not be expected to concern itself about their spiritual or mental needs. Culture was to form no part of the make-up of reformed poachers. Some "literature" was sent out for the improvement of their minds—such masterpieces as "Exercises Against Lying," "Caution to Swearers," "Exhortations to Chastity," "Dissuasions from Stealing," "Religion Made Easy," and so on.\*

No teachers of any kind were sent out with the First Fleet. That could be expected of an age and of a country which refused to educate its children at home, where, out of every 20 hanged, 18 were under the age of 21, and where no place could be found for the numerous "friendless and deserted children who were at present picked up at the age of 8 years and regularly educated to the trade of villany."<sup>1</sup> That could be understood. But it was only at the last moment that a clergyman was allotted to the Fleet—the Rev. Richard Johnson—"one of the people called 'Methodists.'"<sup>2</sup> Two Roman Catholics who begged to be allowed to come out with Phillip—there were several hundred Catholics amongst the convicts—were refused permission.

Nor was the neglect of religion in the settlement due wholly to the lack of interest of the authorities.† It was difficult to

\* See next chapter.

\*\* This is how he was described by Major Grose. Dispatch dated September 4, 1793.

† "When the First Fleet was on the pointing of sailing, in the year 1787, no clergyman had been thought of" and it was only due to a friend of the Rev. Samuel Marsden, "a pious man of some influence, anxious for the spiritual welfare of the convicts." He "made a strong appeal to those in authority upon the subject, and through the interest of the late Bishop Porteus with Sir Joseph Banks, the Rev. Richard Johnson was appointed chaplain."—Burton: State of Religion and Education in N.S.W. (1840), quoted in Barton, p. 54.

obtain a clergyman with missionary zeal enough to hazard the perils of a long sea voyage and the discomforts of a new community. The Rev. John Crowther had embarked on the "Guardian" to come out here as assistant chaplain. He had been one of those who left the ship after she struck the iceberg and was picked up by the French.\* Crowther did not have the stamina to continue on his way, but, having arrived safely at the Cape, determined to tempt providence no further and returned home. The Rev. John Newton, of Olney, seemed to think that any man who would go to New South Wales would have to have some madness in him. He wrote to the Rev. R. Johnson, chaplain in Sydney, of Crowther: "He is an upright good man, but does not seem to possess that firmness of spirit which in my view, is essential to a missionary, and without which no man in his senses and with his eyes open would venture on a voyage to Botany Bay." Mr. Crowther, he says in another letter, preferred "to stay with us and sleep in a whole skin," being "without that apostolic spirit and peculiar call which the Lord alone can give." The Lord was by no means prodigal of such gifts in those days. Not only the Rev. Newton, but also William Wilberforce and the Archbishop of Canterbury were seeking men to whom the possibility of not sleeping in a whole skin might appeal—but, as was to be expected in an age of reason, they found none who was not "in his senses" or who failed to keep "his eyes open." At a time when it was a common practice for clergymen to live away from their "livings," it could not be expected that one would accept a "living" at Botany Bay and then live there!

It was not till March, 1794, that an assistant chaplain arrived in Sydney in the person of the Rev. Samuel Marsden, who was to prove that, if he hadn't had his eyes open in England, he was to keep them open to his great advantage in New South Wales.\*\*

Before he left England, Phillip had ideas about land grants that were directly opposed to those of the government. He wanted the "foundations of an Empire" laid, not by convicts, but by free men from whom he thought the convicts "should ever remain separated . . . even after the seven or fourteen years for which they are transported may be expired."† But his instructions authorised him to give grants of land only to emancipated convicts.‡ It is evident that it was with convicts and with eman-

\* See above, p. 139.

\*\* There was, however, a chaplain to the Corps, Bain.

† Historical Records of N.S.W., vol. I, pt. 2, p. 151

‡ A single man could receive 30 acres, a married man 50 acres and 10 acres for each child. Twelve months' provisions and tools, seed and stock were to go with each grant.



culated convicts that the government purposed colonising New South Wales. It was later constrained to modify its first plans. It was desirable that as many as possible of the marines be induced to remain in the colony when their term of enlistment\* was finished. Moreover, Phillip had stressed in his despatches the necessity of sending out free settlers and his opinion that the quickest and most efficient way to cultivate the land and make the colony self supporting was to allot convicts to free settlers.

In June, 1790, he received additional instructions which empowered him to give land to the marines who elected to remain in New South Wales: 150 acres and 130 acres respectively to a married and single non-commissioned officer, together with 10 acres for each child, and 100 and 80 acres respectively to a married and a single private, also together with ten acres for each child. Tools, seeds, clothes and twelve months' provisions were to accompany each grant. Each such settler was to be allowed convicts to the number that "you may judge sufficient."\*\* No inducement that subjected the public to any expense was to be held out to free immigrants or settlers. They could receive land up to 150 acres each and the services of convicts, but no provisions, seeds, tools or clothing.

Phillip's opinions, based on his experiences, were generally ignored in London. In letter after letter he insisted that a few free settlers "would do more for the colony than five hundred settlers from soldiers or convicts." But he was merely the governor of a penal colony, and "penal colonies were regarded as mere conveniences for the execution of justice at Home, and excited no farther interest in the minds of statesmen."† There is evidence that the administration of the colony's affairs at the London end was completely under the control of minor officials in the department. As for the Secretary of State who succeeded Lord Sydney, Grenville, later Lord Grenville, "neither in his voluminous miscellaneous correspondence nor in his parliamentary utterances can any allusion to the colony be found."‡

Phillip found he could not adhere strictly to the letter of the instructions. He had to furnish provisions to the marines to

\* Three years.

\*\* Those marines who enlisted in the N.S.W. Corps were to receive bounties of £3 each, and double the amount of land at the end of five years' service.

† Merivale: *Colonization and Colonies*, quoted by Britton, p. 117.—No word appears in the first dispatch to Phillip from England to show that there was any appreciation either of the tremendous task that Phillip had undertaken or of the possibilities that lay before the young colony.

‡ Britton, p. 116.—See note on same page relating an incident of a clerk's having a colonial Governor recalled!

whom he granted land for longer than twelve months, and he had some of their land cleared for them and huts built for them. The Home Government was pleased to agree to the deviations. By the instructions, Phillip was obliged to make a grant to the emancipated convict, but it was left to his discretion whether he should furnish land and assistance to the convict whose term of transportation had expired. There seems to be no explanation for this result of the aberration of the official mind! If there were any possibility that the free convict would return to England he was to be offered land in order to induce him to remain.

Officers were not included amongst those to whom land could be granted. Both the officers of the Marines and those of the Corps felt this a hardship. In the latter were officers, like John Macarthur, who had joined it solely with the object of obtaining free land. Macarthur brought his wife with him and she wrote to her mother before she left England that they had a "very reasonable expectation of reaping the most material advantages" from the new colony. There were many complaints from the officers when their "reasonable expectations" were not realised. After the receipt of Phillip's representations on the officers' behalf, the government agreed\* to allow grants to officers, provided the land given was such "as would be suitable for a bona-fide settler," if the officer sold it. No limit was placed on the amount of land that could be given to an officer, and there was nothing to prevent the land from being sold soon after possession of it was taken. Some to whom land and stock were given sold them almost immediately to obtain their fares to England, and some ex-convicts and ex-soldiers were later selling their land for rum!

What seems the result of another vagary of the official mind was that, while in his Additional Instructions,\*\* Phillip was allowed to make no grants exceeding 150 acres, the table of fees to be paid by grantees laid down charges for grants up to 20,000 acres. Phillip was not to grant more than 150 acres to one person, and yet was to charge £3/2/6 for a grant of 20,000 acres! The explanation of this contradiction may be that the government was entertaining proposals for settlement on a big scale. Several schemes for settlement were being put forward.† One, supported

\* This authorisation, however, never reached Phillip. It did not arrive in Sydney till January 16, 1793, when Grose was Lieutenant-Governor. But that gentleman had already taken the responsibility of issuing grants to officers, before the authorisation of them had reached Sydney!

\*\* Received in June, 1790.

† Historical Records of N.S.W., vol I, pt. 2, p. 424.



by Sir Joseph Banks in 1790, provided for the settlement of families upon an estate to be granted to the proposer. Another was a scheme by John Sutton, made in 1791,\* for the settlement of Quaker families—a scheme that was not carried out because of delays and the unfavorable reports from here. In 1792, there were proposals for settlement by capitalists on areas of 10,000 or 20,000 acres.\*\*

Phillip had also to attempt to make a success of the settlement at the same time as many of the officers were sending an avalanche of letters to England prophesying disaster and failure. They made co-operation—their own and that of others—with the few who had confidence in it impossible by their assumption that the settlement would fail, and fail soon. Some of these letters were published in the English papers. "Having now given you," said one "very intelligent officer at Botany Bay,"† "a sketch of this country and its productions, I leave you to form your own opinion of it. I shall only venture to say it will never answer the intentions of government, and I make no doubt but we shall be recalled, which I sincerely wish. . . . I believe this country to be the outcast of God's works." The language sounds like that of Major Ross.‡

The frequent expeditions that Phillip made were responsible for the development of ailments that decided—or helped to decide—him to return to England. He had not spared himself and had shared, even with the convicts, the privations that attended the founding of the settlement. He intermittently suffered from a complaint brought on by sleeping on wet ground during his Broken Bay expedition and from the effects of a "fall into a hollow place in the ground, concealed by the long grass." It was while he thus suffered, so that his trips around to examine the country were "not parties of pleasure, but parties in which nothing but a sense of duty and necessity would make me engage," that Major Ross accused him of absenting himself from headquarters on "pleasure parties." His ill-health was the reason given for his desire to be relieved of the government, "at least for a time" and to be permitted to return to England. But, it was probably more than ill-health that made him desire relief. Phillip had conscientiously and with unsparing energy carried

\* Historical Records, vol. I, pt. 2, pp. 580-5.

\*\* do., pp. 591, 626-27.

† According to the "Morning Post and Daily Advertiser", which published his letter on April 23, 1789.—Historical Records, Vol. 2, p. 745.

‡ Surgeon White added to the tale of woe: the country was "so forbidding and so hateful, as only to merit execrations and curses. . . . The wood is bad, the soil light, poor and sandy, nor has it anything to recommend it."

out the task allotted him in a way that one gathers he would have attempted any other work he had to do. And, while he had faith in the success of the settlement and its future prosperity and importance, New South Wales was for him the sphere of operations allotted to him, not, by any means, a new home. Having done his turn of duty he was glad to return home. One cannot, moreover, blame him for quailing before the difficulties created by the arrogance and obstinacy of military officers. He said nothing of not returning, but one may believe that he hoped he never would.

In April, 1790, he had asked for a year's leave of absence on the ground that his private affairs needed attention. In the following March, and again in November, 1791, he had asked for permission to return to England because of ill health. He wrote, in October, 1792, that his return could no longer be delayed, but that, as permission had not been received, he would wait for the next ships. On December 10, he went aboard the "Atlantic" and on the next day sailed. He arrived in England on May 22, 1793—after an absence thence of six years.\*

It was not till some months after his arrival in England that Phillip resigned. On July 23, 1793, he wrote to the Secretary of State: "It is, sir, with the greatest regret that I ask to resign a charge which, after six years' care and anxiety, is brought to the state in which I left it. But I have the consolation of believing that I have discharged the trust reposed in me to the satisfaction of his Majesty's ministry, and hope that I may still be of service to a colony in which I feel myself so greatly interested."<sup>32</sup> He was granted a pension of £500 a year and was later created an admiral. He died in 1814, in his 77th year.

If Phillip had not "discharged the trust reposed" in him "to the satisfaction of his Majesty's ministry" he had probably done so to his own satisfaction, and he knew better than his Majesty's ministry the obstacles he had to overcome. Already there were settlers who were doing well and there were prospects of a good harvest that would yield enough for a year's supply.\*\* A good

\* With Phillip returned Lieutenants Poulden, Davey and Timins of the Marines with a small detachment of the latter. Only Captain Collins, Judge-Advocate, and Captain-Lieutenant George Johnston, who was attached to the N.S.W. Corps, now remained of the officers of the Marines. Phillip took with him also two aborigines, Bennilong and Yemmerawannie.

\*\* According to a return of October 16, 1792, there were then 1703 acres under cultivation or cleared of timber—208½ acres of wheat, 24½ acres of barley, 1186½ of maize, 121½ of garden ground, and 162½ acres cleared in timber. Of the 1703 acres, 1012½ were public ground, the rest being in the hands of settlers. The public grounds were "at Parramatta" (316½ acres) and "at and leading to Toongabbe" (696½ acres). The distribu-



number of public buildings had been and were being erected. A hospital at Parramatta, begun in April, 1792, was finished and opened in November. A town hall, including a market place, was in progress at the same place when Phillip left, and new barracks had been begun in Sydney, "on the high ground at the head of the Cove." New brick huts were built for the convicts. The population of the two settlements, at Sydney and Norfolk Island, in March, 1792, was 4192—consisting of 3277 men, 691 women and 224 children.

The departure of Phillip from Sydney meant something more than a mere change of governors. It marked also the failure of the first attempt firmly to establish a civil government. Nothing could have suited the militarists better. To the officers of the New South Wales Corps were handed over the colony, its people and its resources as an inexhaustible source of plunder and profit. For the next three years they were not merely a military clique able by their power to defy the governor. They were now the government itself. For two years their commanding officer, Major Grose, as the Lieutenant-Governor, maintained a purely military rule, and his successor, Captain Paterson, continued the same regime for nearly another year.\* Their domination of the affairs of the colony for those three critical years affected not only the history of those three years. It meant also the laying of a firm basis for their future power, which became so great that they were able to force the recall or the surrender of the next three governors. But it had a still more important result—one that was to determine Australian political struggles for many years and Australian economic development for many more. In the remaining years of the 18th century was laid the basis of the wealth and power of the big landowners. Those years determined that Australia was to be a country, not of small farmers, but of big landowners and rich pastoralists. And the beginnings of the political and economic strength of the latter

tion of the rest was as follows: "At Parramatta and the Governor's garden, 7½ acres; garden ground belonging to different people, including convicts' gardens, 104. At Parramatta, 1 settler, 29; at Prospect Hill, 4 miles to the westward of Parramatta, 18 settlers, 95½; at The Ponds, 2 miles to the north-east of Parramatta, 16 settlers, 95½; at the northern boundary farms, 2 miles from Parramatta, 5 settlers, 51½; at the Field of Mars, on the north shore, near the entrance of the creek leading to Parramatta, 8 settlers, 81½; at the eastern farms, 12 settlers, 53; on the creek leading to Parramatta, 7 settlers, 111½; in cultivation by the civil and military

\* Phillip left Sydney on December 11, 1792. His successor, Hunter, did not arrive till September 1795. In the intervening period, Grose was Lieutenant-Governor from December 11, 1792 to December 17, 1794 and Captain Paterson from December 17, 1794 to September 11, 1795.

are to be traced to the triumph of the officers of the New South Wales Corps after Phillip's departure and during the rule of Hunter, King, and Bligh.

How arrogant and lawless the military clique had become after three years' rule is shown by the Baughan incident during Hunter's regime. John Baughan, who had been a convict, was the master-carpenter at Sydney, and, early in February, 1796, he reported a soldier for leaving his post as sentry. The company to which the soldier belonged sought revenge for his arrest by going in a body to Baughan's cottage, brutally maltreating him and wrecking his cottage, its furniture and the outhouses.\* There were many demands that the soldiers be brought to justice. William Balmain,\*\* chief surgeon and a magistrate, questioned Baughan, and, finding him, through fear of the soldiers, prepared to let the matter rest, urged him to take out a warrant against them. Balmain had to threaten to prosecute him for compounding a felony in order to get him to do so. Finally, a warrant was issued for the arrest of four of the ringleaders.

Actuated by what they doubtless dignified with the title, esprit de corps, the officers of the soldiers now took a hand. Balmain received a letter from John Macarthur, speaking for his brother officers, requesting an answer to two questions. "The first was, if he had insisted or advised John Baughan to prosecute the soldiers? The other was whether he had threatened Baughan with a prosecution if he withdrew his complaint?† Balmain's reply did not lack spirit. In his own summary of it to the Governor it was "that he had said so much to Baughan; and farther, that as the man's wife appeared apprehensive that the soldiers would murder her husband, that he had told him he had nothing to fear on that score [and] . . . that if he said more, and any person would put him in mind of it, if it was a fact, he would most readily acknowledge he had done so." In their reply to this defiance, the officers sent back this—"That after a calm and dispassionate consideration of Mr. Balmain's conduct, as expressed in his letter to Captain Macarthur, they should be wanting in justice to themselves if they omitted to express their indignation at his shamefully malevolent interference in the

\* Collins (vol. 1, p. 454) says there was a long-standing feud between the two. The sentry had also formerly been a convict. Collins blames for the trouble the practice of enlisting in the Corps men who "had formerly been convicts, [but] who, not having changed their principles with their condition, thus became the means of disgracing their fellow soldiers."

\*\* After whom the Sydney suburb is named.

† Historical Records, vol. III, p. 29.



affairs of the Corps." It was "malevolent interference" for a magistrate to endeavor to vindicate civil law, bring ruffians to justice and to try to ensure that military arrogance and malevolence should not ride rough-shod over the law!

Balmain did not reply, but wrote instead to Macarthur. He accused the latter of being the instigator of ill feeling amongst the officers against him. He, moreover, told Macarthur that he considered him a "base rascal and an atrocious liar and villain"—in other words, he was challenging him to a duel. The challenge was accepted—not by Captain Macarthur, but by all of the officers of the Corps! The gallant officers replied that Balmain was no gentleman, that his language had increased their contempt for him and that his quarrel was with them all and not with one. So that, added the officers' letter, "if he desires to explain himself individually the Corps will point out an officer for that purpose, and if he should fail in giving Mr. Balmain the satisfaction required, another and another would be fixed on until there is not one left to explain." They expressed the hope, also, that "Mr. B. will not understand what has been said as an unmeaning threat, for he may assure himself that they are all earnest for an opportunity of punishing the infamous conduct" of Mr. B. and "that no one will voluntarily resign to the other his right to inflict it." The officers of the N.S.W. Corps were anxious to vindicate their "honor" to the last man, if not to the last shilling. Balmain's final reply was to reiterate that it was with Macarthur that he had a quarrel, not with the officers of the Corps and that he would "maintain to his last breath the character of a gentleman in defiance of every unmanly mode of detraction that Mr. Macarthur is capable of using." He still awaited Macarthur's acceptance of his challenge.

Governor Hunter was as concerned as those who were calling for justice to be done. In his "Government and General Orders" for February 5, he stated that "if the soldiers expect that the Governor or any of the officers in this settlement can hereafter consider them as hereafter meriting the honorable appellation of British troops, it must be by their bringing forward the ring-leaders . . . in order that the stigma may be wiped away by such worthless characters being brought to trial." He also wrote to Captain Paterson that the military "must not—they shall not—dictate laws and rules for the government of this settlement. . . . Their violence upon the late occasion shall be laid before the King." "I must declare to you, sir," he went on, "that the conduct of this part of the New South Wales Corps has been, in my opinion, the most violent and outrageous that was ever heard of by any

British regiment whatever, and I shall consider every step they may go farther in aggravation as rebellion." This evidently being an occasion on which England did not seem so far away, Captain Paterson felt forced to act. Captain Macarthur brought to the Governor a message of contrition from the Corps, together with the promise that "they would endeavor by future conduct to wipe away the odium . . . brought upon them." John Baughan agreeing, the Governor ordered the warrant withdrawn. The Corps undertook to indemnify the victim of its violence.

As soon as Grose found himself invested with supreme authority, he set out to remove what beginnings there were of a civil, and replace them by a military, judicial system. In addition to the Criminal Court that Phillip, pursuant to instructions, had established, he had also appointed Justices of the Peace to deal with minor offences. These were, in addition to the Lieutenant-Governor and the Judge-Advocate, the Chaplain, the Rev. R. Johnson; the Surveyor-General, Augustus Alt; and the Registrar of the Vice-Admiralty Court, Richard Atkins. Grose took from these their magisterial powers and appointed the officers of the New South Wales Corps to act in their stead! The speed with which the change was made shows that it had been contemplated and planned for before Phillip left. In carrying out the change, Grose acted against the explicit provisions and instructions of the Commission given to Phillip. And yet he made no report at all to the government in England. The system of civil magistrates had worked well under Phillip and it is quite evident that the only reason for the change was to gather into the hands of the military officers all the reins necessary to give them complete control of the colony and its inhabitants.

Grose's next move was to effect a change in that distribution of rations about which he had complained to Phillip. The weekly ration of flour and rice before Phillip left had been 3 lb. and 5 lb. respectively—issued, in accordance with Phillip's policy, without distinction to all classes. Grose altered these to bring them into line with the distinctions that he thought ought to obtain in the degree of satisfaction accorded respectively to gentlemen's and convicts' appetites. To officers, soldiers and settlers from the marines the new rations were to be 6 lb. of flour and 2 lb. of rice. Convicts and ex-convict settlers were to receive 3 lb. of flour and 5 lb. of rice. The change was made on the first day for the issue of rations after Grose took charge. Nothing is more typical of military arrogance and callousness, or more indicative of the character of the man and his class, than this refusal to share and share alike in a period of famine. The



four was, of course, the staple food, and 8 lb. was considered the normal week's ration. In a period and with the prospects that convinced Phillip that only 3 lb. could be allowed each person, Grose decided to take twice as much for himself and his class. The convicts who had to perform the labor of the community, and the convict settlers to whom all were looking to help make the colony self-supporting, and perhaps even to save them from starvation, were to subsist on less than half rations. The effects of this official grab were to bring even more suffering on the convicts later on in 1793, when things became worse, and to reduce again the rations of Grose's aristocracy. The ration for this latter then became 2 lb. per week—and the flour ration for convicts was cut out altogether!\* Thus were the proprieties maintained and the convicts shown that in New South Wales as well as in England there was to be a place for everybody and that everybody was to be in his place.

The conditions that made the drastic reduction in rations necessary were not truthfully described to the English government by Grose. At a time when all the provisions had been issued from the stores, he could write to the Secretary of State that the arrival of a supply ship was not of such importance as might be imagined. Its non-arrival, he wrote, would have brought no "other distress than that of being forced to live on bread only." [Collins thought differently.]\*\* And, we may agree with Britton,

\* Writing of conditions in November, 1793, Collins (vol. I, p. 323) says: "On Saturday, the 23rd., the flour and rice in store being nearly expended, the ration was altered to the following . . . . ."

"To the officers, civil and military, soldiers, overseers, and the settlers from the free people, were served:

Of biscuit or flour . . . . .	2 pounds
„ wheat . . . . .	2 „
„ Indian corn . . . . .	5 „
„ pease . . . . .	3 pints

"To the male convicts were served, women and children receiving in the proportions always observed:

Of biscuit or flour, none, and for the first time since the establishment of the colony.	
„ wheat . . . . .	3 pounds
„ Indian corn . . . . .	5 „
„ paddy . . . . .	2 pints
„ grain . . . . .	2 „

"This was universally felt as the worst ration that had ever been served from his Majesty's stores; and by the laboring convicts particularly so, as no one article of grain was so prepared for him as to be immediately made use of."

\*\* During Grose's regime the colony was at times as near starvation as it had been under Phillip. The regularity of supplies could not be depended on. At one time rations had to be decreased to starvation level; at another time there seemed such a plentiful supply of provisions that a ship-load sent out here as a speculation was not bought up but was sent away again! The crops partially failed through drought in

"it may be doubted whether Grose would have taken up his pen in the same cheerful state of mind if he had been obliged to live for a few weeks or months on dry bread and dishes made from indian corn; and, however he might have fared under such conditions, the absence of animal food would have been severely felt by the convicts, who had to labor in the fields." And the statement that there was plenty of maize available was only a half truth. "It is true," continues Britton, "that there was plenty of wheat and maize in the fields, but there was no flour from which to make bread, and there was no adequate means for turning the corn into flour. Hand mills had been sent out, but the number was small, and they were only capable, with the expenditure of infinite labor, of grinding small quantities of grain. Efforts had been made to erect large mills at Sydney and Parramatta, but so far with indifferent success. . . . Wheat and maize were issued, but until the grain had been ground it could not be made into bread. The convicts had, therefore, to take their rations to the mills and wait until they could obtain the equivalent in flour or maize meal. They had to wait a long time. The mills were kept going night and day, but they were unequal to the demands made upon them. Some of the convicts, after spending the night at the mills in the vain expectation of receiving a pound or two of flour, went to their work in the morning with unground wheat and maize for food."\*

By 1794, the colony was considered to have become self-supporting, in the matter of grain, and Grose considered its achievements in this direction due to the success of the officers' farms. Phillip, as we have seen, had had no authority to grant land to officers. The authorisation to do so reached Sydney after Phillip left. Grose, immediately he received it, allotted land to those officers who wanted it. It is undoubtedly true, as Grose reported, that the achievements in agriculture were due to the success of the officers' farms. But it was not due to any special ability as farmers that they might have possessed. Had the marines or the convicts received such favorable treatment as the officers were given, they, too, would have achieved similar successes. Ten

1793 and, as in Phillip's time, ships loaded with convicts brought little food. No ship arrived from England between September, 1793, and March, 1794. In the latter month, the "William" arrived in Sydney with beef and pork but no flour. A few hours before she arrived all the provisions had been issued from the the stores! Only the Indian corn in the fields stood between the colony and starvation. Writes Collins: "Mere bread and water appeared to be the portion of by far the greater part of the inhabitants of these settlements, of the that part, too, whose bodily labor must be called forth to restore plenty." (Vol. I, p. 351.)

\* History of N.S.W. from the Records, vol. 2, pp. 248-9.



convicts, and in some cases more than ten, were given, free of charge, to each officer, and were clothed and fed by the government stores. It was a system of slavery under which the slave exploiters did not have to pay for the labor of their slaves. Moreover, the officers could employ other convicts, when these were not working for the government, and pay them—with rum! And yet Grose reported to Secretary Dundas that the officers were working the land "at their own expense."

The facts were that the officers received far more generous treatment than had been authorised. Grose's explanation of this generosity was that the indolence of the other settlers precluded the possibility of his relying on them to make the colony self-supporting. And so the officers were given free land, had the services of ten or more convicts and their rations, and continued to draw their own pay as officers. In addition, they could buy more labor by means of a medium of exchange, rum, whose exchange value was fixed, not by any law of supply or demand, but by their monopoly control of it. In return for all these privileges, which made them a caste apart, the officers grew produce on their farms, not for the benefit of the community or to become the property of the government, but for their own profit. The position was that the government completely financed the working of these farms, paid the officers to whom they had been given, and then bought their produce! And Grose could commend the energy and resourcefulness of the officers and bewail the indolence and lack of ambition of the rest.

Early in 1794, Grose received a despatch from England ordering him to reduce the number of convicts allowed each officer from ten to two. "Where grants of land," it said, "are made to such officers as at the same time continue to receive their pay, it is but reasonable that they should maintain such convicts as are granted for the cultivation of the land, exclusive of the two allowed them as officers for two years."\* Grose refused to carry out that instruction. He wrote to England explaining that ten convicts were not enough and asking that the instruction be reconsidered. Before he could receive a reply (which reiterated the instruction), Grose had left Sydney and the burden of carrying it out fell on Hunter's shoulders. In 1796, the English government was complaining that maintaining convicts in New South Wales cost "more than two-thirds of what they would have been kept for" in the prisons in England. The costs of the administration were on top of that. The English government was not reaping the benefits it had hoped for when it established the

\* Dundas's despatch of June 30, 1793.

colony. Instead of economising it was spending more. It would have been cheaper, the Duke of Portland might have added to his dispatch, to depend more on hanging than on transportation. And, as he wrote, the Duke's government was needing all the pounds it could lay its hands on to wage war on the English people, to prevent their achieving a greater measure of freedom, and upon the people of France and Ireland, to deprive them of the measure of freedom they had won or were winning.

The first economic conflict, therefore, between the new colony and the mother country was one about the exploitation of its convicts. The home government wanted a self-supporting prison and the convicts to be taken off the stores as soon as possible—not the maintenance, at its expense, of a huge reservoir of slave labor to be at the disposal of gentleman farmers, or of any other kind of farmers.\* In this respect, at least, the policy of the English government was closer to the interests of the convicts and settlers than was the practice of Grose and his fellow-officers.

**5.—THE RUM TRADERS.**—But the wealth of the officer-settlers was not based wholly on the land or the labor of convicts thereon. It was made possible also by their trading monopoly and their debauching of the population with their rum. In this respect, too, Grose showed himself as concerned not with the interests of the colony but with those of the officer-caste.

There were two evils associated with the rum traffic. One was the wholesale consumption of spirits and all that it implied and was responsible for. The other was the use of spirits as a medium of exchange and the control of that medium by unscrupulous persons for their own enrichment. The second of these evils was the worse.

It was a drunken age and abstinence—or even temperance—was the exception. The ruling class in England set the example and all classes followed it. But there were differences between the drinking, and its effects, of rich and poor. The former had many things to substitute for it and were, therefore, the more blameworthy; the latter often found in it forgetfulness of poverty and misery. For the rich there were few of the effects of poverty, tragedy and misery; for the poor it was accompanied by all its vilest evils—for them it was, too, a scourge that drove much of the manhood out of them. In New South Wales, with its horrors

\* At the time of the Duke of Portland's complaint each officer was allowed, on the average, 13 convicts whose cost to the government was £260 per annum.



of banishment for the poor and its character of a place to make money in, and then to fly from, for the rich or those who had or gained opportunity to become rich, the evils were multiplied. Forgetfulness was an added urge to drink in New South Wales—forgetfulness and the feeling that here nothing mattered. From such a soil a rich harvest was to be reaped by officers and traders.

Phillip had recognised the evil results of allowing large quantities of spirits to be brought into the colony. In 1791, he banned the importation of spirits without a permit and suggested to the Secretary of State the imposition of a duty. The suggestion was turned down. A year later, being informed that rum was on the way to Sydney for the Corps, he wrote: "The permitting of spirits among the civil and military may be necessary, but it will certainly be a great evil."\* The events of the next ten or twenty years were to prove how good a prophet he was. Even in his time the traffic in spirits had begun. The depth of meanness was surely plumbed by the officers and others who, having a supply of rum, used it to "buy" the rations of the convicts at a time when the rations of all had been cut down. Men who so had the craze for drink that they did not stop to count the cost were prepared to give away their meagre rations for rum. It is enough to enable us to gauge the character of many of the officers to know that they were prepared to take the rations and give the rum. Ten pounds of flour—over a three weeks' ration—bought a bottle of rum. To buy a pound of tobacco nearly ten weeks' rations of flour were necessary! The practice was made the subject of a charge by Phillip against one officer, Lieutenant Dawes of the marines, in 1791. The offence of Dawes does not seem, however, to be as heinous as those of others.\*\*

Grose reversed Phillip's policy in this matter, as in others. On December 24, 1792, that is within a fortnight after Phillip's departure, an American ship, the "Hope," arrived in Sydney. She had provisions and spirits aboard. Grose bought both—the American being unwilling, Grose tells us, to sell the provisions unless the spirits were also bought. The latter Grose issued to the soldiers and deducted the cost from their pay. That ship was the beginning. Other ships brought spirits and officers were allowed to purchase as much as they wanted through the stores at cost price or directly from the ships. Ships were chartered to bring the officers—civil as well as military—supplies of liquor from the Cape and India. American shippers soon learned that there was a market in Port Jackson for all the rum they could send

\* Historical Records, vol. I, pt. 2, p. 665.

\*\* Historical Records, vol. I, pt. 2, pp. 543 ff.

out. Spirits from many sources and of many kinds found their way there and they all had a common quality: an unbelievable vileness.

The prohibition of spirits would have worked wonders in the convict settlement. The strict policing of the regulations that Phillip had introduced—no importation of liquor without a permit, no trafficking in liquor, nor selling of spirits to the convicts—would have resulted in a sober community based, in a new country, on the hopes that many had in it. As it was, it became a drunken community and a free rein was given to the drink evil and to every licentiousness that sprang from it. The aim of the officers was completely to debauch the population so that they could profit. The aim of Grose was to permit them to do so and to give them every facility.

The rot spread rapidly. It was only to be expected that, in the Corps, the discipline that rests on men's confidence in and respect for officers could not be maintained. The discipline that was substituted for it was the discipline that is built on the precarious sands of bribery and pandering to passions. The soldiers, says Collins, were granted "every indulgence. . . . Spirits and other comforts had been procured for them; he [Grose] had distinguished them from convicts in the ration of provisions; . . . he had indulged them with women." A discipline so based had to collapse and the soldiers, following the example of their officers, helped still further to weaken the moral stamina and postpone the creation of a self-reliant community.

The door being widely opened to drink, the appetite for drink grew. Indulgence increased desire. Convicts were prepared to sell their flour for rum and then steal from their mates to fill the void. And they were also prepared to work for rum. Gangs of them, on their off days, worked for the officers on their farms and were paid in spirits. The Rev. R. Johnson described the evenings after men who had been working on the farms were paid in rum. "The whole camp has been nothing else, often, but a scene of intoxication, riots, disturbances." Gambling was one result—"numbers of them," says Johnson, "have gamed away the clothes off their backs, and the very provisions served them from the public stores, for weeks or months before these became due."

The price of rum rose, in December, 1793, to six shillings per bottle and farmers began to choose distilling spirits from maize and wheat rather than selling it to the store. It became more profitable to make spirits than to make bread. "Webb, the settler



near Parramatta," writes Collins,\* "having procured a small still from England, found it more advantageous to draw an ardent diabolical spirit from his wheat, than to send it to the store and receive ten shillings per bushel from the Commissary. From one bushel of wheat he obtained nearly five quarts of spirit, which he sold, or paid in exchange for labor, at five and six shillings per quart." And Webb was only one.

Grose made no attempt to put an end to such practices,\*\* and the successful farmers joined with officers in helping to continue soaking the colony with spirits. Some attempt was made to prevent the buying of food from the convicts. But the far greater evil—the buying of labor with spirits—suffered no hindrance. It went on with the assistance and approbation of the Lieutenant-Governor.

There is available the evidence of a number of witnesses of the conditions in New South Wales under Grose. "All those persons Governor Phillip indulged with a farm," wrote the Rev. Samuel Marsden and Assistant-Surgeon Thomas Arndell, in a report about the settlement at Prospect, to Governor Hunter in March, 1798,<sup>33</sup> "'tis well known were selected as men of general good character; none but the industrious and sober were allowed to become farmers; they also received similar indulgence with the other districts from Gov'r Phillip. At the time he left the colony the settlers in every district were in a promising way of doing well and of supporting themselves and families, but upon his leaving the settlement a material change soon took place in their circumstances. Those misfortunes were first occasioned by the introduction of spirits and traffic amongst themselves. Out of twenty settlers who had grants of land originally given them by Gov'r Phillip in this district only six now remain; the rest have either sold or rented their lands from total inability to carry on their cultivation. The ground in this district in general is very rich and fertile, so that their ruined or embarrassed circumstances cannot be attributed to the barrenness of the soil." A similar story was to be told by the same reporters of the other districts. In Concord, the land is rich and fertile—but "should a ship arrive with any articles of consumption, they can't raise a single pound in the two districts" [Concord and Liberty Plains]. At The Ponds, many farmers "have been long since ruined" by "that nefarious practice"—the traffic in spirits.

"It may be proper to observe," concluded Marsden and Arndell,

\* Vol. I, p. 327.

\*\* Hunter, in March, 1796, prohibited the distillation of spirits from grain

"that the first settlers were considered as men of general good character," and that the causes of their ruin would bring ruin also to the present settlers, "unless some speedy and salutary measures are adopted to save the falling landed interest." Failing which, the farmers faced "nothing but approaching want and misery . . . , the sale of their farms, and the ruin of their families."\*

In July, 1798, Chief Surgeon Balmain, the Rev. Johnson, Surgeon Arndell, and the Rev. Marsden were asked by Governor Hunter to put in writing their impressions of the conditions during Grose's regime. They did so. Two of them were clergymen and may be expected to give an exaggerated and one-sided report of the morality of the colony. But their testimony is backed by that of the two surgeons and by the colony's historian, Judge-Advocate Collins. And, whatever view we may have of the narrowness and class bias of 18th century Christianity, we cannot but admit that in Johnson and his efforts we see a force that was endeavoring to stop the moral rot and making a determined stand for things and standards higher than rum and profit. For that stand and that endeavor, Johnson and those who stood with him found "insults, oppositions, oppressions,"\*\* from Grose and the rum traders. The latter saw in the former an obstacle to the carrying out of their plans and therefore endeavored to bring their work to nought and to hinder it in every way. "I shall only add, farther, my Lord," wrote Governor Hunter to the Duke of Portland, in July, 1798, "that the sacred character of our Savior, were he to appear in this colony in its present state, would not be secure from the dark attack of those whose private views he might oppose in favor of the public interest. There are people here who would most readily prepare for His sacred head another crown of thorns, and erect another cross for His second crucifixion; and none I am persuaded more

\* A table given by Marsden and Arndell furnishes a graphic illustration of the ruin that was brought to the farmers:

District	Number of settlers originally settled by Phillip	Number of settlers remaining, March, 1798
Parramatta	7	2
Northern Boundary	10	1
Prospect	20	6
The Ponds	16	4
Field of Mars	8	3
Eastern Farms, or Kissing Point	12	5

—Historical Records of N.S.W., vol. III, p. 374

\*\* Johnson to Hunter.



so than the person of whom I have complained."\* Hunter may be suspected of indulging in hyperbole, but facts dissipate the suspicion and prove he was but drawing sober conclusions from undoubted facts.

A part of the campaign against those we may call the reformers was to throw obstacles in the way of holding church services. "Within a month after Governor Phillip was gone," writes Johnson,<sup>24</sup> "I received an Order to perform divine service at six o'clock in the morning. A quarter before seven, the tattoo (as it is called) beat off for relieving the guard; so that I had barely three-quarters of an hour allowed me to go through the church service, and this was all that was required for the day." The officers required some of their convicts to work on Sundays and Grose had given his permission. Johnson reports that his preaching was often interrupted by drunken or gambling men. The Rev. Marsden relates an incident of his being interrupted and insulted by a drunken man and of Macarthur's refusal to interfere. Johnson tells of a constable's forbidding convicts to attend church services.<sup>25</sup>

"I cannot forbear," continued Johnson, "giving your Excellency another instance of the most gross opposition I met with at that time. At one time when a Criminal Court was held there were two men sentenced to suffer death. The same afternoon I visited them in their lonely cells, and intended to visit them again in the evening. The sergeant of the guard called at my house the same evening with a request from the prisoners that I would spare them a candle. I sent one by my servant and desired him to inform the sergeant that I would come to the prisoners in a few minutes. In less than half an hour the sergeant came to my house a second time, brought back part of the candle, and informed me that he had received orders not to admit any person to see or speak to the prisoners except Mr. Bain, chaplain to the Corps." Johnson went with Marsden to see the sergeant who stated that he had received explicit orders to refuse to allow them to see the prisoners. "We then returned home, when I immediately wrote a letter to the Lieutenant-Governor, but received no answer. The next morning the order for their execution was brought to me—that at such a time the two prisoners were to suffer, and that at their request he had ordered Mr. Bain to attend them. All this was a fabricated falsehood, . . . a person who was permitted to visit them . . . asked them several times whether they ever had made such a request, when

\* Hunter was speaking of John Macarthur.

both of them positively and frequently declared they never had—that they were surprised I had never been with them, and expressed (particularly the morning on which they suffered) an anxious wish to see me." Thus did Grose tell a lie and with utter callousness refuse the last request of condemned men in order to strike a petty blow at Johnson. Marsden expressed himself as "determined to prefer no more complaints," since he was never heeded by Grose or the officers, "but to struggle with present difficulties till time and a change of government should remove them."<sup>26</sup>

During Phillip's regime, Johnson had to complain that no church had been built for him.\* The foundations of one had been laid at Parramatta, in 1791, but the building developed, not into a church, but, successively, into a lock-up and a granary. Johnson told Phillip, in 1792, that he was better off in 1788 when there were plenty of trees to shelter him and his congregation! The neglect with which Phillip perhaps unavoidably treated Johnson changed to active opposition when Grose took over the reins of government. It was self help that finally gave Johnson his and Sydney's first church. He set to work in June, 1793, to build a church. It was completed in time to hold the first service in it on August 25. It cost £67/12/11½—which he paid out of his own pocket.\*\* He did not, in his letter to Dundas, ask for repayment but it is evident that he expected it. Grose, however, in forwarding this letter did not recommend repayment but stated that "his charge for this church is infinitely more than it ought to have cost,† and his attempt to make a charge of it at all surprises me exceedingly." As we cannot imagine Grose's doing anything for nothing we fail to see any cause for his surprise. Mr. Johnson, he added in his covering letter, "is one of the people called Methodists," and "is a very troublesome, discontented character." He was discontented, of course, because he had complaints to make about abuses, and troublesome because he insisted on some official help in carrying out an official task.

In a letter to Dundas, dated April 8, 1794, Johnson asks whether his "conduct in what I have done [that is, in building a church

\* "I hope his [Phillip's] successor will treat you better than he did," wrote the Rev. Newton, from England, to Johnson in May, 1793.

\*\* The church was situated "at the back of the huts on the east side of the cove, near to what is now the corner of Hunter and Castlereagh Streets."—"Sydney in 1848," p. 11, quoted in Historical Records, vol II, p. 65.

† £67 for a church to seat 500!—The repayment was not authorised till 1797.



himself] deserves censure or merits condemnation, after having waited for five and a half years, and no prospect of any place being about to be built for this purpose." He made application for an old man to act as sexton. This was refused him. Often, he said, graves were not dug or not dug to the correct measurements and he had had to wait with the corpse while a grave was made or altered. "Persons bearing other offices are furnished with what is needful for them to do their duty, and for the same reason I do not see why a clergyman should be denied what is necessary for him in the discharge of his duty. But such has been all along my situation, that I have had neither church, nor clerk, . . . nor sexton, for want of what conveniences and assistance I have seen it needful to complain." It is evident that Johnson lacked neither dignity nor spirit. He reiterated his complaints to Dundas. He could not get convicts to work the church land—officers could get ten or more each. He was out of pocket because of his spending over a hundred pounds on the land granted to him, because he had been promised a cow if he did so. "But instead of this promise being made good to me, all my men, domestics included, at a moment's notice, were taken away last November, except two," and, as a result, "I have been obliged to take four men off the store, to whom I have to pay at the rate of forty shillings per week."

Johnson, in his letters home, made detailed and explicit charges with chapter and verse. Grose in his letters took refuge in vague charges and innuendo. "Was it not in pity to a large family," he wrote to Dundas, "I should represent the disorderly behavior of the Rev. Mr. Johnson, from whom I have received treatment very unbecoming his character as a clergyman to offer, and not very consistent with my situation to put up with."<sup>37</sup>

One who quickly found prosperity in New South Wales was John Macarthur,\* Lieutenant (and later Captain) in the N.S.W. Corps. He was one of the officers to whom land was granted by Grose early in 1793. He was given 100 acres, "on the south side of the creek leading to Parramatta," and the grant later became known as Elizabeth Farm. Macarthur was also appointed by Grose as Inspector of the Public Works." He had by then been promoted "Inspector of the business of paymaster of the regiment," thus "had a handsome addition to his income." So wrote his wife to a friend. But she was uncertain "what advantage may accrue from" the new appointment as Inspector; "but the Major, in his despatches to government, has strongly recom-

\* He, himself, spelt his name McArthur.

mended them to confirm the appointment, and to annex to it such a salary as they may conceive equal to the importance of the trust."<sup>38</sup> In November, the Macarthur family removed to Parramatta where John Macarthur was stationed.

The growing prosperity of the Macarthur's may be gauged from the letters sent home by Mrs. Macarthur and her husband. "This country," the former wrote on September 1, 1795, "possesses numerous advantages to persons holding appointments under government. It seems the only part of the globe where quiet is to be expected. We enjoy here one of the finest climates in the world. The necessaries of life are abundant, and a fruitful soil affords us so many luxuries." A year before, her husband, in a letter to his brother, had called statistics to his aid in order to give an eloquent picture of the prosperity that awaited "persons holding appointments under government" when Grose and the N.S.W. Corps ruled. "The changes we have undergone," he wrote, "since the departure of Governor Phillip are so great and extraordinary that to recite them all might create suspicion of their truth. From a state of desponding poverty and threatened famine, that this settlement should be raised to its present aspect in so short a time is scarcely credible. As to myself, I have a farm containing 250 acres, of which upwards of 100 are under cultivation, and the greater part of the remainder is cleared of the timber which grows upon it. Of this year's produce I have sold £400 worth, and I have now remaining in my granaries upwards of 1800 bushels of corn. I have at this moment 20 acres of very fine wheat growing, and 80 acres prepared for Indian corn and potatoes, with which it will be planted in less than a month. My stock consists of a horse, two mares, two cows, 130 goats and upwards of 100 hogs. Poultry of all kinds I have in the greatest abundance. I have received no stock from government but one cow; the rest I have either purchased or bred. With the assistance of one man and half-a-dozen greyhounds which I keep, my table is constantly supplied with wild duck and kangaroos; averaging one week with another, these dogs do not kill less than three hundred pounds' weight. In the centre of my farm I have built a most excellent brick house, 68 feet in front and 18 feet in breadth. It has no upper story, but consists of four rooms on the ground floor, a large hall, closets, cellar, etc., adjoining is a kitchen, with servants' apartments and other necessary offices. The house is surrounded by a vineyard and a garden of about three acres; the former full of vines and fruit trees, and the latter abounding in the most excellent vegetables."<sup>39</sup> For the officers of the Rum Corps, at least, the new colony was a land



of plenty—Macarthur was writing in August, 1794; he had taken over his first hundred acres only on February 12 of the previous year!

To the minds of such as Mrs. Macarthur—and one gets the impression that she had as much confidence in the ability and integrity of her husband as another Mrs. M. made famous by Dickens had in hers—the settlement at Sydney was made for the express benefit of the officers of the Corps. The political economy which furthered their interests was good political economy. Any practice that was inimical to their wealth-making activities was not good political economy. So, she condemned the ex-convict laborers who “demanded an enormous price, seldom less than four or five shillings a day” and the free selling by ships’ captains who might, by that method of disposing of their goods, create a monopoly and practice imposition on those who wished to buy. Instead, if a monopoly was to be created, let it be a monopoly of gentlemen.\* As a result of such reasoning, the officers under Grose gained a trading monopoly which remained in their hands for as long as the Corps remained here, and passed into those of their successors when they left. “The officers in the colony,” naively wrote Mrs. Macarthur, condemning with the same dip of the pen the idea of a monopoly in the hands of ships’ captains, “with a few others possessed of money or credit in England, unite together and purchase the cargoes of such vessels as repair to this country from various quarters. Two or more are chosen from the number to bargain for the cargo offered for sale, which is then divided amongst them in proportion to the amount of their subscriptions.”\*\* Thus was monopoly defeated by monopoly.

“From being buyers and sellers in general,” says Dr. Lang,“ the officers of the Corps “gradually conceived the idea of estab-

\* Dr. Lang blamed the evils brought to the colony by the N.S.W. Corps upon the fact that the standards that were considered necessary to judge fitness for a commission in other English regiments had been lowered when the Corps was formed. We refuse to draw any such distinction. The doctor was near the truth when he said: “Certain it is, that the man who devotes all his energies to the mere concerns of buying and selling will at length come to estimate everything, not according to what it is really worth, but only according to what it will bring. In this manner the very expansion of mind, which success in mercantile speculations generally induces, has a tendency to produce a corresponding degree of moral degradation, for the man who begins the world by buying and selling oranges, which is a lawful employment, and may therefore be honestly engaged in and honestly conducted, will perhaps end the matter by buying and selling seats in Parliament, i.e. by buying and selling the liberties of his country, which it is as infamous to buy as it is traitorous to sell.”—Lang: History of N.S.W., 4th edit., vol. I, pp. 50-51.

lishing themselves as the only buyers and sellers in the colony. When a merchant ship arrived in the harbour, the officers of the Corps got the first sight of her manifest and the choice of her cargo; and they had ways and means of allowing the free or emancipated convict-merchant to follow only at a humble distance in their wake. In short, the Honorable the East India Company were not the only military trading company, at the period in question, beyond the Cape of Good Hope. In the sale of tea and other India or China produce, of West India rum or Bengal arrack, and of softgoods or hardware of British manufacture, their example was diligently and successfully copied on the small scale by their military brethren in New South Wales.”

We have seen Grose, in the role of a subordinate, the cause of much trouble to Phillip. We can now see him in another role—that of a lieutenant-governor with the opportunity of harshly treating a subordinate, Lieutenant-Governor King of Norfolk Island.

In April, 1793, two Maoris, who had been captured and brought to Sydney, were sent to Norfolk Island where they gave the settlers instruction in the dressing of flax. In the following November, King, desirous of returning them to New Zealand, took advantage of the visit of the “Britannia” to carry out his purpose. He commandeered that ship, left Captain Nepean, who was on it on his way home, in charge of the Island,\* and himself set out for New Zealand, where Woodoo and Tookee, the two Maoris, were welcomed back with great joy by their relatives and their chiefs.\*\* King was away ten days. Immediately on his return to Norfolk Island, he wrote to Grose, informing him of what he had done. One result of his visit to New Zealand was his recommendation, sent to England, that a settlement be made there.

In January, there was a more serious matter for King to report to Grose. The report showed that in Norfolk Island, too, the

\* To the chagrin of Lieutenant Abbott who threatened disobedience to Nepean. Abbott thought he should have been left in charge. One of King’s reasons for not doing so was the fact that, if anything happened to Abbott, the officer next to him would have been in charge and he was “a beastly drunkard”. Another reason was that, six months before, Abbott had urged “some soldiers to pick a quarrel with a settler in order to beat him.” King, therefore, on the smaller settlement had similar people to put up with as Phillips had had in Sydney.

\*\* King took as presents to New Zealand: “Land-axes, a small assortment of carpenters’ tools, six spades, some hoes, with a few knives, scissors and razors; two bushels of maize, one of wheat, two of pease and a quantity of garden seeds, ten young sows and two boars.”—Collins, vol I, p. 531.



military were defying the civil power and even taking part in a mutiny. King handled the situation well, but Grose, in his reply, severely reprimanded him and blamed the convicts for the soldiers' misbehavior. There had been a dispute between Dring, a settler, and Windsor, a soldier, over the former's wife. The soldiers, reported King to Dundas, were "perpetually enticing the women to leave the men they were married to, or those they lived with." Dring had struck Windsor, and, brought before the justices, had been fined "twenty shillings for the use of the school." Another settler was fined ten shillings for a similar reason and in similar circumstances. Later, Dring was beaten by a body of soldiers and the ringleader of the latter was sentenced to a hundred lashes but was forgiven upon the intercession of Dring. The anticipated reconciliation between the soldiers and settlers did not eventuate, the head of the offending soldier being impervious to coals of fire! Then there was a riot resulting from a dispute between a military sergeant and a constable, the former provocatively claiming a seat at the play-house on which the constable was sitting and which he, as manager of the play-house, was reserving, together with others, for Mrs. King's servants and for Mr. Balmain. The soldiers later became so out-of-hand that King and Abbott hesitated to bring to trial a soldier who had beaten a peaceful settler, for fear that the soldiers would refuse to allow any sentence to be carried out. The soldiers refused, also, to obey orders given by Abbott. It was mutiny that King was faced with. He decided on disarming the detachment, and its three officers and the civil officials agreed, "to prevent the effusion of blood." By dividing the detachment and with the aid of some of the marine settlers, they secured the arms. When the mutineers were secured, their arms were given back to the rest. During the crisis a militia of forty-four seamen and marine settlers was formed. The mutineers were sent off to Sydney by the first ship that called at the Island.

It is the sequel that is of importance. Grose's reply to King's report condemned everything the latter had done. He was "more astonished and mortified," he said, than he could well describe. "What appears to me the most extraordinary is the great confidence with which you seem to set about such ill-judged and unwarrantable proceedings." King's actions in going to New Zealand and in sending back the Maoris without Grose's knowledge "are attacks on my situation I little expected and which would justify measures I shall not pursue." King, also, according to Grose, had no authority to appoint Nepean in his stead and Abbott "would have been perfectly justified in resisting"

the appointment. The detaining of the "Britannia" was so heinous an offence that Grose in his report home would disclaim all knowledge of it and of King's "excursion," too.

But it was the mutiny, which "you state to have happened," that Grose was greatly perturbed about. He ordered a Court of Inquiry to sit—in Sydney! But he himself seems to have known intuitively all about the affair without any inquiry at all. He could see, he said, no "necessity of disarming the detachment." But he could "all too plainly perceive that, if the soldiers have been refractory, the insults they have received from the convicts were sufficient to provoke the most obedient to outrage." King and the other officers had been on the spot, but Grose away in Sydney knew more than they did—that soldiers could do no wrong! He ordered that the militia be disbanded and that the constable who had dared to refuse to be cowed by the military sergeant be sent in irons to Sydney. Lieutenant Townson was sent to relieve Lieutenant Abbott, and Grose directed that, "the house occupied by the commanding officer of the troops being reported to be very uncomfortable, you will permit him to choose for himself any other house he prefers, and you will remove any person inhabiting the house he wants to the quarter he would have occupied." "Prussianism" in New South Wales 120 years before some New South Welshmen were asked to go help wipe it out in Europe!

The Court of Inquiry\* turned in its report, which said that the detachment had certainly been mutinous, but, because of the facts that there was no reason why the ten men sent to Sydney should have been picked out from the rest and that they had all received many insults, the court was of the opinion that the men were "not unworthy of mercy." "We are fully persuaded that there was not the smallest existing necessity for the violent measure of disarming the detachment; and to us it is apparent that the soldiers were forced into the disorders . . . by the licentious behavior of the convicts, who seem to have always insulted them with impunity. . . . We are impelled to express our surprise that two magistrates should consider that a fine of ten shillings could satisfy the feelings of a soldier for being beat." Nothing was said, of course, of a soldier's seducing a settler's wife. That was a soldier's privilege.

As a result of the "inquiry," Grose drew up a list of instructions

\* Consisting of Captains Paterson, Foveaux, Johnston, Lieutenants Macarthur, Townson, Prentice, Rowley, Ensigns McKellar, Lucas and Quartermaster Laycock—officers who, themselves, 14 years later, were to be guilty of mutiny on a large scale.



which King was ordered to make public at Norfolk Island. They are worth quoting as revealing the character of the militarism by which New South Wales was then ruled. "Any convict, whether the term of his transportation be expired or not, who shall be accused of striking a soldier is immediately to be given up to the commanding officer of the detachment, who is himself to investigate the matter; and if it appears to him that the soldier has been struck, he will immediately order the offender to be punished with one hundred lashes by the drummers of his detachment.\* No provocation that a soldier can give is ever to be admitted as an excuse for the convicts striking a soldier." Soldiers were to be tried for any abuse or ill treatment of a convict or settler, but only by his officers. As the latter were "fully equal to correct any crimes committed by the soldiers, there exists no necessity for taking a soldier before a Justice of the Peace." "As it appears necessary for the safety of the inhabitants to employ a number of convicts in the character of constables,\*\* people of this description are to understand that they are not on any pretence whatever to stop or seize a soldier, although he should be detected in an unlawful act. . . . Officers, non-commissioned officers, and soldiers are of their own authority to confine any convicts who misbehave, and any resistance on the part of the convict will be severely punished. . . . The commanding officer of the detachment . . . will never suffer the soldier to be given to the custody of a convict† constable." Thus was militarism vindicated and placed firmly in the saddle at Norfolk Island.

The actions of King were, however, approved by Dundas and even Grose, when he forwarded King's letters to England, sent a covering letter apologising for the severity with which he had dealt with King and which he explained by the fact that when he wrote to King "the situation of the colony did not wear the most pleasing aspect."‡

The second Governor of New South Wales was Captain John Hunter. He had been second captain of the "Sirius" in the First Fleet and was in charge of that ship when it was wrecked at Norfolk Island. He later returned to England and after Phillip's

\* That is, a free man was to be "tried" by a military officer and to be flogged!

\*\* Grose branded all non-soldiers as convicts whether they were free settlers or emancipated or still serving their term of transportation. Constables were, generally, free men.

† Or free, Grose meant.

‡ See Historical Records of New South Waes, vol. II, pp. 103-110, 125-131, 135-173, 173-191, 252.

resignation was appointed Governor. Phillip had recommended King\* as his successor, but the Government appointed Hunter, who had applied for the position.\*\* He took over the reins of government on September 11, 1795, a year and eight months after his appointment† and over two years after Phillip's resignation.

Hunter was not the man to curb the officers or to break the monopolies that had been created during the rule of Grose and Paterson. He may have been, as Dr. Lang described him, "a man of sound judgment, of strictly virtuous principles, and of warm benevolence; and had he not been counteracted by the influence and the practices I have already described, the colony would have prospered greatly under his administration, and profligacy would have hidden its head and been ashamed."‡ But what was wanted was government that could not be counteracted—a governor strong enough to act in the interests of the bulk of the settlers against those of the monopolists. King would have made a more desirable successor to Grose and Paterson.

As it was, the evils that they had introduced were more firmly entrenched, as a result of Hunter's administration, and King's task, when his turn came, became all the more difficult. In the end King, as well as Hunter, failed.

When Hunter applied for the position as Governor, he had looked forward to a life of ease and comfort. His hope was that "I should with ease to myself and with proper effect and advantage to the public have been able to manage all the duties of

\* Phillip, in his letter to Dundas of October 26, 1793—(one wonders whether the prior date of Hunter's application determined the government's choice—see next Note)—had high praise for King. "More than six years' experience in the colony," he said, "must have given him a knowledge which cannot have been attained by any other officer, and he is known to possess that activity and perseverance which is so requisite in an infant colony."

\*\* "It having been reported to me," he wrote to Dundas, October 14, 1793, "that Governor Phillip has, on account of his health, declined returning again to New South Wales, I take the liberty of offering myself as a candidate to succeed him." He went on to speak of his experiences and his service in the new colony and referred to the fact that Phillip had had a Commission appointing him Governor in case of Phillip's death. On January 4, 1794, he wrote again, this time to Under-Secretary Nepean, asking when he was likely to be appointed, as "I am desirous of having what time may be possible. A man of no fortune is unwilling to run any expense until it becomes necessary." Government departments moved very slowly in the 18th century. On February 13, Hunter applied for the grant of a year's salary in advance. (Historical Records of N.S.W., vol. II, pp. 73, 101, 110, 117.) Hunter was also recommended for the position by Lord Howe on whose flagship he was then serving.

† The official announcement of his appointment appeared in the "London Gazette", on February 5, 1794.

‡ History of New South Wales, 4th edit., vol. I, p. 55.



my office." But, he told Sir Samuel Bentham,\* in 1799, he soon found himself "awakened from that dream of comfort and satisfaction the prospect of which I had so vainly indulged." And, had he "been gifted with the power of looking into future events," he would not, although he had not a penny in the world beyond his Navy pay, "have coveted that which now occupies my endeavors."<sup>42</sup> He had good intentions—but these served their proverbial purpose.

He had to complain, soon after he arrived here, of the shortage of food, of tools and of clothes. Public works could not be carried on because there were not enough convicts available, so many being employed by the gentlemen farmers. While he was writing letters telling the department at home that men were "working in the field and other places literally naked as the natives of the country and the present inclement season [he was writing this particular letter in the middle of winter] has for want of the necessary clothing and blankets reduced the people to great distress, and placed too many in the hospitals,"<sup>43</sup> transports were arriving loaded with convicts but with no clothes at all beyond what the convicts stood up in. There were many other things to complain about and Hunter's dispatches are filled with complaints. He seems to have thought his work accomplished when he showed by the number of complaints he made that he knew what was wrong. But complaints are no remedy for abuses or cure for ills. He was finally told by the Duke of Portland that remedies lay in his own hands.\*\* From two practices sprang most of the evils that were rampant. One was the granting to officers more than two convict servants—slaves would be the correct word—the other was the allowing of officers to engage in trade and

\* Brother of the famous Jeremy Bentham

\*\* "I must next advert," ran the Duke's dispatch of September 18, 1798, "to the evils which you represent as arising from the speculation and traffic in grain, live stock, and spirits which the officers of the government, and particularly those in the Military Department, have entered, contrary, as you very properly observe, to the nature of their institution and the duties annexed to it. The instructions you have already received limiting the number of convicts to be allowed to any officers in the manner therein mentioned, had they been duly executed, could not but have gone a great way, if not entirely, to cure this evil as far as it relates to grain and live stock, because the public stock would have been already so very much increased as not to have left any improper temptation to this species of traffic. With respect to the sale of spirits, it is certainly in your power, as well as it is your duty, to prohibit, by the most positive orders, all officers of government, civil or military, from selling any spirituous liquors to the convicts and settlers."—Historical Records of N.S.W., vol. III, p. 490. For the settlers' view of the officers' monopoly and its results for them, see the next chapter.

to traffic in spirits. Hunter had been given explicit instructions to put a stop to both. He failed to do so. He temporised over the first and made no attempt to prevent the second. But his complaints still went on.

The Baughan incident\* showed Hunter with what contempt the officers of the Corps regarded the civil authorities. But the same incident showed how lamentably he failed to make a firm stand for law and thus help to break the lawless power of the officers. The joint apology and the promise of restitution were proof that the officers were on the retreat. Then was the time to strike harder and turn the retreat into a rout, not to help make it easy and honorable. The ringleaders in the riot should have been brought to trial, together with any officers who sought to encourage them either to the deed or to defiance afterwards. The Duke of Portland's comment on Hunter's report was that he could not "well imagine anything like a justifiable excuse for not bringing" the ringleaders to trial.

A modern apologist\*\* for Governor Hunter claims that the latter did all he could in vindication of the law. If there had been a court martial, the officers of the Corps would have formed the court and they had already shown themselves ready to fight duels in defence of the culprits. But, on the other hand, it is to be considered that the same knowledge of guilt and the fear of condemnation by the government in England that drove the officers to apologise and make restitution would probably have forced them to act with some measure of justice in a court martial. In their failure to do so the Governor would, surely, have had a strong weapon against them.

Another instance of his refusal or inability to make a firm stand against the "lawless poison-selling militarists"† occurred in January, 1800, when a small vessel, chartered by the officers without the knowledge or consent of the Governor, arrived in Sydney from Bengal with "fifty legars of spirits" on board. An application, signed by John Macarthur,‡ William Balmaint and James Williamson, asked for permission to land the cargo. Hunter agreed, because, as he wrote home, "to oppose its being landed will be vain, . . . for the want of proper officers to execute" his orders. "The only hope in those days," wrote Prof. Wood,\*†

\* See above, p. 203.

\*\* Prof. Wood in R.A. Historical Society Journal, vol. 14.

† Prof. Wood.

‡ Now, evidently, happily united by business interests.

\*† In the R.A. Historical Society's Journal, vol. 14.—Prof. Wood's comment on the "endless fight against rum-selling military officers, whose abominable conduct was undoing Phillip's work," by the three naval governors, is: "In a survey of the fight our strong prejudice should be on

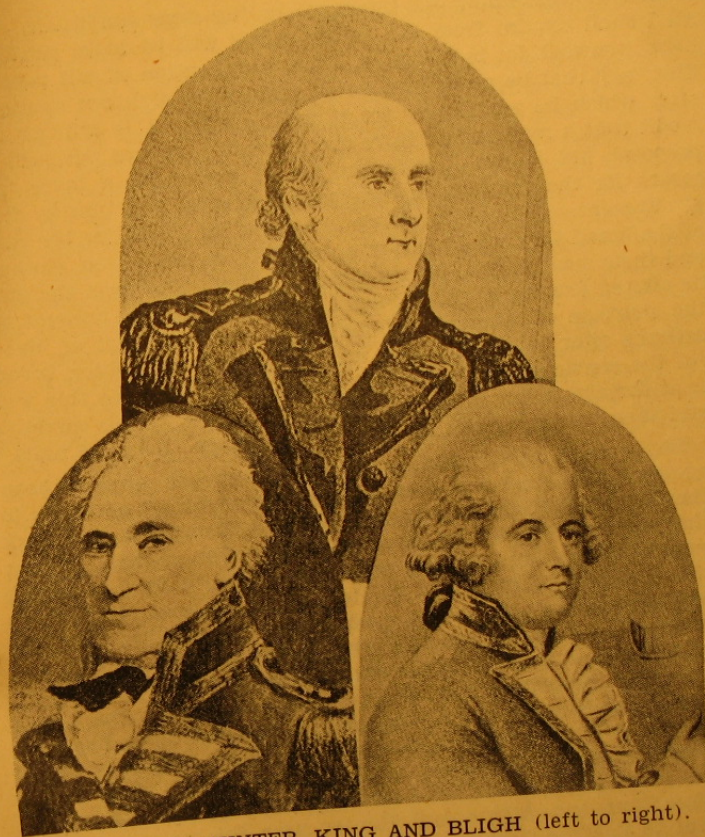


"was in the rule of an autocrat, whose interest was in the welfare of the community, and who was subject to the criticism and control of the British government; for the interest of the British government also must be in the welfare of the community for that would mean less expense to the mother country and—of still greater importance—less work and trouble to British officials." With this we can in the main agree but would stress the necessity for autocracy less and put in its place co-operation by the Governor with and his reliance on the settlers and the bulk of the population whose public opinion was already becoming articulate. Both Hunter and King could have made a success of their struggle against the Corps if they had wholeheartedly co-operated with the rapidly growing free population, farmers and laborers, and based their power upon them. It was in that direction that Hunter could have found the force necessary to give authority to his orders. Of the three naval governors who succeeded Phillip, Bligh came nearest to relying upon the settlers as a political force against the military autocracy. But by his time the latter was stronger than ever and was able to profit by his bad tactics.

"In the year 1824," says Dr. Lang in his "History," "the late John Macarthur, Esq., . . . stated in my hearing, with evident feelings of self satisfaction, that he had been the means of sending home every governor of the colony but the last (meaning Governor Macquarie); and I am greatly mistaken if he did not render the same service to the then reigning Governor, Sir Thomas Brisbane." "Such braggadocio was evidently typical of the man who seems to have made up his mind to let nothing, except, perhaps, his own vile temper, prevent his gaining what he had set his heart on. It was not because the governors were tyrants who stood in the way of Australian freedom that he worked for their downfall. It was because they stood in his way. Hunter had not been in the colony a year before the two clashed. That clash was the first of many between Macarthur and a governor.

Hunter retained Macarthur in the position given him by Grose, that of Inspector of Public Works. On February 24, 1796, however, Macarthur resigned because of the "loss of that confidence which

the side of the governors. . . . Hunter's kindly nature was easily deceived; King was a man of hot temper and of poor judgment who made serious mistakes; Bligh was a man of still hotter temper, and of no judgment at all, who made mistakes of a nature so serious that the word 'mistake' becomes too kind a word to describe them. Yet, as Norman and Angevin kings were mainly in the right in contest with lawless feudal barons, so governors were mainly in the right in contest with lawless poisoning militarists."



GOVERNORS HUNTER, KING AND BLIGH (left to right).

your Excellency was once pleased to express." "Our opinions differing so widely in points which I conceive to be of some consequence to the King's service," the Governor replied, "it is impossible that I should object to your wish of withdrawing your assistance from that which has now become so very irksome and unpleasant to you." A letter written to Hunter by Macarthur in the following August refers to the proposal that was the cause of the difference between them. Macarthur then reiterated the proposal. It was that he should henceforth feed with bread at his own expense the convicts allowed him. Such generosity was not unselfish. "I shall cheerfully receive," he said, "any number



of men (not exceeding one hundred) on the same conditions. . . All I shall require from the public stores will be tools, cloaths, nails, ironwork for buildings, and the usual ration of salt meat." This "all" that he needed he would require for eighteen months, after which he would pay for it with grain. It is difficult to credit that a man should have the effrontery, not to put such a proposal, but to put it with the air of conferring a favor "in return for the very liberal indulgences granted" to him by the government. He was to get up to a hundred slaves for the cost of the bread they would eat, and, in addition, nails, iron, clothes and their meat ration, for eighteen months! That was the gift he offered Hunter, whose excellent reply was that, on account of the shortage of laborers and materials, the only part of Macarthur's offer he could accept was that of his furnishing bread for the convicts he already had. Macarthur's reply to this was to undertake to buy meat from the public stores for his servants and then to request clothing for them and ten thousand nails.<sup>45</sup>

Governor Hunter's opinion of Macarthur has already been quoted.\* "Before I had been long in the country," he wrote to the Duke of Portland in September, 1796, I "had cause to remark that scarcely anything short of the full power of the Governor would be considered by this person as sufficient for conducting the duties of his office."\*\* Hunter considered that Macarthur's aim—as well as the aim of most of the other military officers, was to throw every obstacle in the way of the civil magistrates, in a "direct attempt to overthrow, or render ineffectual, the civil power of the colony." Such an attempt he saw in the attack made upon Richard Atkins who succeeded Macarthur as Inspector of Public Works. This attack began in July, 1796, just before Judge-Advocate Collins was to leave for England, when Atkins was to act in his stead.<sup>46</sup> The correspondence that passed between Macarthur and Atkins and Hunter over this case Macarthur sent to England, together with an attack on Hunter's administration, an act which Hunter characterised as "an impertinent, indirect, and highly censurable interference in the duties and department of the Governor of this colony." The Duke of Port-

\* See above, p. 213. On another occasion he wrote: "There is not a person in this colony whose opinions I hold in greater contempt than I do this busybody's, because I have ever observed that under the most specious and plausible of them there has always been covered a self-interested motive."—Historical Records of New South Wales, vol. III, p. 211.

\*\* In the same letter, Hunter gives another reason why Macarthur had resigned: because Hunter had forbidden the continuance of his "interference in the departments of other officers."—Historical Records of New South Wales, vol. III, p. 130.

land, however, did not reply to Macarthur but sent his letter back to Hunter for his consideration.

Macarthur's letter charged that "the interest of government is utterly disregarded, its money idly and wantonly squandered, whilst vice and profligacy are openly countenanced." It complained that his offer to maintain 100 men with bread had been rejected, although over 3000 were drawing rations from the stores and not an acre of public land was being cultivated. Macarthur also attacked the practice of settling a large number of men on the land—these, instead, should have "been obliged to employ themselves in the service of an industrious and vigilant master." He enclosed a "plan to encourage the increase of live stock."<sup>47</sup>

It was nearly two years before Hunter was able to reply. Macarthur's letter, returned by the Duke of Portland, reached Sydney again in July, 1798. Hunter's reply is dated July 25. He referred to Macarthur's "restless, ambitious and litigious disposition," reminded the Duke that it was he who was the instigator to defiance on the part of the military in the Baughan case and charged him with deliberate misrepresentation. He said that he had been reliably informed that Macarthur had boasted that his letter would result in the recall of the Governor. He had misrepresented the character of certain land because he was opposed to farming by the government. The chief surgeon and the commissary had complained of his interference and the latter had charged that he had improperly issued goods to, and bought grain from, his friends through the store. Hunter gave his reasons for rejecting Macarthur's offer to take a hundred men and feed them bread: "I will submit to your Grace whether the public or private individual would have been the gainer by this absurd offer. The daily wages of a laboring man (without providing food) was at that time five shillings, or something more, and the price of bread was about 2½d. per lb. Supposing a man to receive 2 lb. per day, that would amount to fivepence; for this mighty saving to government of fivepence he would have gained more than five shillings in labor."

Hunter admitted the profligacy existing but blamed it on the traffic in spirits—"and this man, so strenuous an advocate for order and good management, was one of the most extensive dealers in the colony." After replying to the charges about the alleged waste of grain and the Governor's buying up of unwanted grain (which Hunter said he did on Macarthur's own advice—as "at this time I had the most perfect confidence in the opinions he gave, being then a stranger, without the necessary information or any knowledge of the man I confided in."), Hunter



enclosed statements from Surgeons Balmain and Arndell and the Revs. Marsden and Johnson.\*

In June, 1798, "some of the principal inhabitants and the whole of the military officers" entered into an agreement to appoint two representatives to meet all ships to negotiate for the goods they brought. There was to be no competition. They all agreed not to interfere with the two buyers or to buy goods rejected by them. Each one bound himself to forfeit £1000 if he "departed in any one instance from the tenor of this agreement". Hunter, instead of seeing in the agreement the creation of a monopoly and an extension of that trading by officers against which he was constantly inveighing and to which he ascribed most of the evils in the colony, gave it his approval—even to the extent of issuing a government order welcoming it as a display of public spirit on the part of the officers, because it would do away with "the appointment of improper persons as agents". The Duke of Portland did not see it in this light and Hunter was ordered to conduct an inquiry into trading by officers and to send any transgressing officer home by the first available ship. Lieutenant-Colonel Paterson, who was in England, was also ordered to return to Sydney to prevent his officers from engaging in trade.\*\*

In February, 1799, the Duke of Portland wrote to Hunter telling him that he had received an anonymous communication from Sydney making serious charges against his administration. He asked Hunter to refute them. The letter did not reach Sydney till November 3. Hunter's reply is dated November 15. But, two days after his letter reached Sydney, Portland was writing another letter to Hunter expressing his "disapprobation of the manner in which the government of the settlement has been administered by you in so many respects" and recalling him!

It is evident that Portland was not sincere in asking Hunter to reply to the charges made—he dismissed him before he could have any chance of replying. Not even Hunter's enemies had openly accused him of corruption and there was no need to rely on anonymous charges of corruption in order to find reasons for his recall. In the matters of trading by officers, the trafficking in spirits and the number of convicts allowed the officers, Hunter had failed to carry out instructions. It was for these reasons and for his approval of the officers' trading agreement, together

\* See above, p. 212.

\*\* Historical Records of New South Wales, vol. III, pp. 405-6, 408, 637-8,

with his failure to cut down expenses, that Hunter was recalled. But while his recall was being written in London he was replying to the anonymous charges of a "dark and infamous assassin,"\* which Portland himself quite evidently did not believe.

It was not corruption that Hunter had been guilty of, but gullibility and want of firmness. His character, he wrote in his letter of defence, had never yet been "stained by one mean, base, or dishonorable action. . . . Let me live on bread and water with a pure and unpolluted conscience, a fair and respectable character, in preference to rolling in wealth obtained by such infamous, such shameful, such ignominious means as this letter-writer alludes to. I have no turn for traffic, my Lord; I never had." King's opinion, expressed to Sir Joseph Banks, in September, 1800, was: "I believe him to be what the whole colony says he is—an honest man; but the reliance he has placed on those who, to use his own words, 'have tricked and deceived him in every instance,' has placed every circumstance, person, and thing in such a state that much time will be lost in getting them into the path pointed out by my worthy friend Phillip." We cannot but agree with King's estimate of him and with that of others of his contemporaries. He was, however, not the man to curb the officers of the N.S.W. Corps or to put down the evils that had grown up in the colony. He was, as the purser of the "Lady Shore" described him, "a pleasant, sensible old man," who thought he was to end an honorable career in a comfortable position as the governor of a new colony and whom, in his own words, nothing would have induced to accept that position, "had I known what it really was."<sup>40</sup>

Hunter's place was taken by Captain Philip Gidley King in September, 1800. He returned to England and was given a pension of £300 a year and was later promoted Rear and then Vice-Admiral. He died on March 13, 1821, at the age of 83.

6.—THE DEFEAT OF KING.—King, on account of sickness, had sought leave and, it being granted, had left Norfolk Island October 22, 1796, arriving in England the following May. Later on in the year, he was feeling as if discarded. "I came to town," he wrote to Sir Joseph Banks on October 7, "with an intention of being relieved from the very uncertain state of

\* It was not the first time that Hunter had been attacked anonymously. In June, 1797, "an infamous, scandalous and anonymous letter" addressed to him had been picked up in the streets linking his servants with the traffic in spirits. It was the same charge that was made to Portland, also anonymously.



suspense I have been in for this time past. I wish I could say that I was at all assured of what my future motions are to be." He said he was thinking seriously of resigning his commission as Lieutenant-Governor and returning to service in the Navy, provided the position offered him was in keeping with his rank—otherwise, "I must go into Wales or Cornwall, and take up my spade."<sup>50</sup> In the following January, it was announced that King was "shortly to go" to New South Wales with a "dormant commission" as Governor in the case of death or resignation of Hunter. This he gained "through the interest of Sir Joseph Banks." To compensate Lieutenant-Governor Grose,\* promotion to colonel was given him.<sup>51</sup> The "shortly" was considerably extended—and it was not till November, 1799, that King left England.

King, like Hunter, found that his new position was no sinecure. He arrived, he said in a letter to Banks, in the character of a reformer and, in October, 1802, was claiming to have rid the colony of the "most flagrant and dishonorable abuses, . . . but at the expense of being hated" by the "vultures in it". These latter, he said, hated him because of two things: "first, my determination that the public shall not be cheated; and next, that the king's authority shall not be insulted." In June, 1802, he wrote: "The former system of monopoly and extortion I hope are now eradicated. Of spirits I think the inundation is going off,\*\* and industry begins to know her produce will not be sacrificed to the infamous wretches that have preyed on the vitals of this colony."<sup>52</sup> In this, King was unduly optimistic.

King met the same opposition that Hunter had had to face and that Bligh was later called upon to do battle with, and lose. Its chief organiser was that "master worker of puppets,"† John Macarthur. When the latter was being sent home under arrest, King wrote to Under-Secretary King: "If Captain

\* Grose had left Sydney in December, 1795, and arrived at Cork in June, 1796.

\*\* The following table is of interest in this connection (and see next chapter):

	Gallons Imported	Gallons Sent Away	Gallons Retained	Monthly Average Retained
29/9/1800—31/12/1801	59,294	32,320	26,974	2155
31/12/1801—1/3/1804	37,501	13,243	24,258	933
1/3/1804—21/12/1804	23,075	7,700	15,375	1537
Total	119,870	53,263	66,607	

† "I need not inform you," wrote King in a private letter to Under-Secretary King, on November 8, 1801, "who or what Captain Macarthur is. He came here in 1790 more than £500 in debt, and is now worth at least

Macarthur returns here in any official character it should be that of Governor, as one half of the colony already belongs to him, and it will not be long before he gets the other half."<sup>53</sup> The circumstances of his arrest constitute the story of King's big clash with the Corps officers..

The affair, which occasioned King's sending the Duke of Portland a long report—with 72 enclosures!—began over a gun and a quilt. At Rio, on the way out on the "Cornwallis", Lieutenant Crawford of the N.S.W. Corps was drowned. Lieutenant Marshall, R.N., agent on the ship, coveting the deceased's gun and quilt, substituted his own for them. When he arrived in Sydney, Macarthur, who was in command of the Corps, Lieutenant-Colonel Paterson being on an exploring expedition, prosecuted Marshall. But the magistrates acquitted him of "any felonious intentions". Later, Marshall insulted Macarthur and was by him challenged to a duel. Marshall appointed the purser of his ship as his second, but Macarthur's second, Captain Abbott, refused to meet him, considering him not his equal. The result was that Marshall went to the ground and waited but his opponent did not turn up. The following day he met Abbott and struck him and promised to do the same to Macarthur. But the latter was armed and prevented the fulfilment of the promise. King then ordered Marshall to be brought before a Criminal Court on charges of "an assault and battery on Captain Abbott and an assault on Captain Macarthur."

Marshall was brought before the Court, consisting of five officers of the Corps, a naval officer and the Judge-Advocate. He objected that the Court was not competent to try him and also to an individual member\* of it. The objections were overruled and he was sentenced to a year's imprisonment and to pay a fine of £50 on the first charge and referred to the Secretary of State on the second. In a Memorial to the Governor, written before the trial was over, he complained that he had

£20,000. His employment during the eleven years he has been here has been that of making a large fortune, helping his brother officers to make small ones (mostly at the public expense), and sowing discord and strife. . . . Experience has convinced every man in this colony that there are no resources which art, cunning, impudence, and a pair of basilisk eyes can afford that he does not put in practice to obtain any point he undertakes." In another letter, King spoke of Macarthur as "this rich Botany Bay perturbator," and, in another, he expressed his opinion that Macarthur's "arts and intrigues . . . will one day or other sett this colony in a flame."—(Historical Records of New South Wales, vol. IV, pp. 611-615, 619, 501.)

\* Captain McKellar.



had no right of challenge in the Court, that he had been interrupted and browbeaten and accused of insulting his judges, that there had been whispering between the prosecutor and the witnesses, that the officers were biased against him and that some of them had interrupted the prosecutor in order to ask leading questions of the witnesses. He asked the Governor to interfere. The latter replied he could not do so till the trial was over.

After the trial King ordered the Court to meet and consider Marshall's charges against it. He did this, he said, in order "to afford the most unequivocal justice to the prisoner". The Court refused. The Governor, thereupon announced his intention to place the whole matter before the Secretary of State, particularly the Court's refusal to obey his orders. The Corps officers who formed part of the Court then asked for a copy of Marshall's Memorial. King refused this and refused to recognise them as the Court. They then replied that the other two members of the Court, the Judge-Advocate and Lieutenant Grant, R.N., had agreed that the Court could not legally comply with the Governor's order. To this the other two replied, when asked by King, that they had not so agreed.\* Things being brought to this impasse, King remitted the sentence of £50 and one year's imprisonment on condition he sailed on the "Albion" and entered into recognisances to surrender himself to the Secretary of State upon his arrival in England.

Macarthur now took another hand. He wrote to King complaining that developments were making likely his being misunderstood and misrepresented and claiming that his whole proceeding against Marshall had had the Governor's support and advice. This claim King denied and got Atkins and Balmain, of the magistrates, to support his denial. Macarthur reiterated the claim, with the support of Captain Abbott, and King reiterated the denial. But the matter had now gone beyond its original bounds and the stage of Macarthur's campaign against King entered upon. That campaign was to persuade his fellow-officers to refuse to have any except official relations with the Governor. Colonel Paterson would not agree to associate himself with this conspiracy and, therefore, Macarthur "threatened to divulge all their private and public

\* The officers, in reply to this denial, stated that the two would swear to anything the Governor might want them to and presented their own "solemn depositions to prove that they have denied the truth". Both sides seem to have been right; the two not making their dissent known so as to be able to claim or deny as expedient.

conversations, correspondence, and transactions." Paterson persisting in his refusal, Macarthur carried out his threat.

Two letters made public were critical of King's regime—one to Sir Joseph Banks and the other to General Brownrigg. The pen that wrote them was that of Paterson, but the mind behind them was evidently that of Macarthur. And yet Macarthur now published them in order to cause a breach between his colonel and the Governor! An extract from the letter to Banks reads:

"I cannot help observing that he [King] has carried his economy too far. There was a time when wheat might have been had (which he refused to take). The consequence was that many of the settlers had no other way of disposing of their grain than to feed their stock with it, and hundreds of bushels have been used for that purpose." King's comment on this throws some light on the rapacity of some individuals in Sydney town as well as upon the hypocrisy of John Macarthur: "As the store-houses were full of grain, and the vermin destroying a great part of it before it could be issued, where would have been the economy to purchase grain and leave it in the public streets? I answer, it would have suited those who had great sums due to them from the unfortunate settlers,\* for their former monopolising and iniquitous proceedings. Government might have paid for it, the vermin might have eat it, and the weather might have destroyed what the vermin left; and instead of the expenses of grain purchased in the last three quarters amounting to £6700, I might have explained to my superiors why it amounted to £20,000, and why half the quantity purchased was destroyed."

Macarthur's broadcasting of the contents of these letters had the opposite effect to that intended. And, when he saw that Paterson and the Governor had been drawn closer together instead of being estranged, he began "an exposure of much private correspondence" that was "very hurtful to Col'l Paterson's feelings."\*\* To find out who, of the officers, were with Macarthur, King sent invitations to all of them, except Macarthur, to celebrate the anniversary of the king's coronation on September 13. Four did not reply until their answer was sent for and they then refused the invitation. On the following

\* See next chapter.

\*\* King.—The letters read by Macarthur included some from Mrs. Paterson to Mrs. Macarthur.



day was fought the duel between Paterson and Macarthur, Paterson being the challenger.\*

King, who heard of the duel while at Parramatta, immediately returned to Sydney and placed Captains Macarthur, Piper and McKellar under arrest "until the surgeons announced Col'l Paterson to be in a state of convalescence". "When the eight days limited for a military arrest were expired," they were released from arrest but were required to find "security for their appearance in case Col'l Paterson" died. King also decided to send Macarthur to Norfolk Island. The latter refused to leave arrest and demanded that he be tried by Court Martial. As it was apparent that such a trial as would be a trial was impossible in Sydney and as he was convinced that Macarthur was endeavoring to create dissension\*\* in the colony, King decided to send him back to England for trial. King made it quite clear, in a letter written home during the following year, that there was no room in the colony for both himself and Macarthur. The conduct of the officers of the Corps, he wrote, "generally has been proper since I took the command; but the turbulent characters pointed out by Colonel Paterson and myself have influenced the others so much as to make it necessary that if Captain Macarthur is allowed to return here, and some notice is not taken of the other officers' conduct, my recall, or permission to return, will be absolutely necessary, to prevent such steps being taken by me as will not much tend to the quiet and good of the colony; for to serve under such a set as will then be in the colony, is what neither my pride will stoop to, nor situation allow of."

One lesson that King drew from the whole affair was that a change in the judicial system of the colony was necessary. He did not recommend trial by jury, which, he thought, could not

\* "When we had agreed upon the spot," runs the account of Captain Mackellar, Paterson's second, "Captain Macarthur loaded his own pistols, while Captain Piper stood by and helped him to what he wanted. I loaded Col. Paterson's, and when done tossed up for the first fire, which was won by Capt. Piper for Capt. Macarthur; measured the distance (twelve paces) and desired Col. Paterson, who stood a little way off, to take his ground, which having done I gave him a pistol not cocked. Capt. Macarthur fired, and his ball having hit the Colonel in the right shoulder he dropt his pistol. I made Capt. Macarthur keep his ground until I found by Mr. Harris's assurance, as well as by the Colonel's own, that it was impossible he could return the fire. I then told Capt. Piper that his principal might quit the ground, when Capt. Macarthur sent me a message, as if exulting in victory, that he should be ready for Col. Paterson at any time."—[Macarthur denied the exultation.]

\*\* King believed that the "rich Botany perturbator" aimed at the governorship.

be allowed, "for some, nay many, years to come". But he suggested that, instead of the Criminal Court's consisting of "the Judge-Advocate and six of his Majesty's sea or land forces", it should be composed of "the Judge-Advocate and six commissioned officers of the civil establishment, sea or land forces". The interchange of civilians with military officers, would, he thought, "strengthen the impartial and free administration of justice".

King's troubles did not cease with the deportation of Macarthur. There still remained here other officers with whom it was almost as easy to clash. There was Major Johnston, for example, who was in command of the Corps while Paterson was absent through ill-health.<sup>55</sup> He objected to King's organizing a Volunteer Corps from amongst the settlers and a body-guard from amongst the emancipated convicts\* and there were clashes between him and the Governor over courts martial.<sup>56</sup> There were two other incidents which hurt King very much and which urged him to demand an inquiry into his administration by a Commission from England or permission to return to England to submit his conduct and administration to the government. One was the Colnett affair. The other was the secret circulation of anonymous lampoons.

In these lampoons the hostility expressed towards the Governor was undisguised and unrelenting. Their content betrays their source. They were written, King wrote to Lord Hobart, when "I was absent from Sydney four weeks, and on my return was seized with a dangerous kind of illness". "The disappointment" of his enemies "induced them to take the opportunity, when my existence was doubtful, of using the most assassin-like means of attacking my character and reputation, and aiming at the destruction of all good order and discipline in case I recovered". The first one was found in the barrack yard. Another was found "in the yard of Capt'n Kemp's barrack" and still another in Lieut. Hobby's chaise. King accused Hobby, Kemp and Ensign Bayly of circulating these papers. Some of the lampoons were sent on to England with King's comments. In one King is supposed to be speaking:

"If my power was not stinted, I'd make the whole world shake,  
Give sergeants commissions and officers break,  
I'd civilians give trust, confide in new faces  
Make magistrates of them and give them new places  
And to prove my applause from the settlers, poor tools,  
Read the humble address of a parcel of fools."

\* See next chapter.



King's comment on the third line above is: "I conceive no better presumptive proof can be adduced of what profession the assassinating author of this anonymous libel is." And on the last two: "These grateful daily, monthly and yearly acknowledgments are from those oppressed and industrious people who I have rescued from debt, poverty, and destruction, which most certainly had been effected at the expense of those whose oppressive conduct has been truly infamous." In these lampoons the civilian officials are attacked, as are also King's plans to help the settlers, his creation of a Volunteer Corps and his efforts to break monopoly. Considering these, we recognise the authorship.<sup>77</sup> It is not to be wondered at that King wished to go home when his military officers were scattering anonymous attacks upon him personally and upon his administration that affected their pecuniary and other interests.

In April, 1803, Captain Colnett, of H.M.S. "Glatton", then in Port Jackson, requested Governor Hunter to do him the favor of emancipating a certain young woman convict and allowing her to return to England. He was prepared to keep the matter perfectly secret if King thought it necessary. The woman had been brought out on the "Glatton" and Colnett carried a letter from Mr. Copper, in Lord Hobart's department, saying that it was too late to do anything on her behalf when he was writing (that is before she left England) but that he would ask King to remit "part or all of her sentence when she has remained at that place twelve months". Colnett offered to enter into a bond to bring her back to Sydney if the government failed to approve King's emancipation of her. King replied that he dared not do so, but made an offer: "If you will write me officially that she has brought forward any conspiracy, etc. on the voyage [as Colnett had said she had] I will give her a conditional emancipation on landing." King also offered to give her a conditional pardon on the King's birthday, June 4, if she were of good behavior or did "not behave ill". But she could not leave the colony.\*

There were conflicts between King and Colnett while the latter remained in port and Colnett spent his leisure time on the voyage home preparing a report on King and his colony which he presented to the Admiralty on his return to England. King had

\* The woman was granted a conditional emancipation by King in December, 1804, and it was made absolute by Macquarie in 1810. According to Colnett she was of good parents and was transported for stealing 40 shillings.

treated him inhospitably, Colnett was not given accommodation ashore, he wasn't allowed a horse, was refused a grant of land—"I every day became more and more disgusted with the place". He stated that King had promised that the woman should go back in the "Glatton" and then broke his promise! He also stated that she had been responsible on the boat for his gaining "information as to upset all the projects" of the convicts. King, went on Colnett, "having acquired from habit his disgraceful custom by commanding and abusing the vilest part of mankind, he had forgot all decent conduct to those beneath him and respect for his equals, treating all alike except his time-serving sycophants". Not even the harbor escaped his strictures: he "found not a little difficulty from the narrowness of the place to cast quick enough to prevent running ashore" and there was "no greater depth of water than four fathoms near high water" and the channel's "greatest breadth [was] not wider than the ship's breadth". "Every object on shore declared the poverty of the soil" and he could compare "the buildings called Sydney town . . . to no other than a miserable Portuguese settlement."

The adverse report that the Captain's disappointment gave rise to did not persuade the government to take up his case against King. But it evidently carried some weight with officials who were continually receiving accounts of the dissensions between the Governor and the military officers. In November, 1803, Lord Hobart's dispatch to King began by expressing his pleasure at the continued improvement of the colony but went on: "At the same time I must not conceal from you that the gratification I experience from this satisfactory view of the situation . . . is in a great degree alloyed by the unfortunate differences which have so long subsisted between you and the military officers of the colony, and which, I am sorry to observe, have latterly extended to the commander of H.M.S. 'Glatton'. These considerations have led me to recommend to his Majesty to comply with your application for permission to return to Europe\* as soon as the important trust with which you are charged can be placed in the hands of some person competent to exercise the duties thereof, free from the operation of the spirit of party which has reached such an alarming height." In other words, in the eyes of the government, King had failed. In the eyes of King and of the military

\* King had asked only for leave of absence to present his case, failing the sending out of a commission of inquiry



officers, the former had been defeated, the latter were still triumphant. King, like Hunter, was to be replaced. It had not occurred to the government to replace the Corps and to maintain, as Hunter had advised, successive regiments in the colony for only short terms.

The "competent person" selected to take King's place was Captain Bligh, on the recommendation of Sir Joseph Banks. King returned to England in 1807 with, as he said, "the approbation of a self-approving conscience and clean hands. My children . . . are not enriched beyond the savings out of my pay (of which I am ignorant), [but] I will take care that no part of my conduct shall cost them, or any of my friends, a sigh or a blush." He did not survive for long his supersession. He died on September 3, 1808. A few days afterwards news reached England of his successor's arrest.



NOW on SALE

# "William Lane and the Australian Labor Movement"

by LLOYD ROSS

M.A., LL.B., D.Litt.

This is the first large-scale portrait of a man who was one of the founders of the Australian labor movement, and who attempted to set up a Socialist colony in South America.

For the first time, justice is done to the greatness of William Lane, and to the strenuous attempts that were made in South America.

While the colonies of New Australia and Cosmo failed, the attempt revealed both the greatness of the individuals concerned, and the weakness of this form of social experimentation.

No other book has treated the story of these colonies so sympathetically.

Crown 8vo.—375 pages. Bound, 7/6.

Order from your Booksellers.

Wholesale from:

MODERN PUBLISHERS & IMPORTERS,  
McIlraith's Buildings, Oxford Street, Sydney.

Or from our Agents at:

TOWNSVILLE: R. HILLS, P.O. Box 385.

BRISBANE: M. HEALY, 83 Elizabeth Street.