Then, after telling his 'dearest Annie' how every moment of their separation was an eternity, he was interrupted by the entry of committee members into the chambers.[41]

Governor Bourke reacted very favourably to the engagement. When he was told of the proposed match, he conferred with Alexander Macleay about Thomson's connections. Macleay believed that he was the only person whom the Governor consulted, and he was pleased to be able to satisfy him perfectly in every respect. Bourke had long been impressed by Thomson's industry, capacity and attainments. He considered him very respectable and well mannered. Perhaps the match was not brilliant: after all, Thomson's salary was only £600 per year. But he was prepared to improve himself by taking another office. In any case, Bourke could see no reason why the union should not be a happy one.[42]

The marriage took place at Parramatta on 18 September 1833. It was intended to be a private affair, but in the event 'a galaxy of the *elite* of the Colony' attended the ceremony. Archdeacon Broughton officiated, and George Macleay was best man. Afterwards the couple set out for their honeymoon at Wiseman's Ferry, on the banks of the Hawkesbury River.[43]

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41 EDT to Anne Bourke, labelled 'First note received from my ever beloved husband', 8 Aug. 1833, DTP, vol. 2, p. 160.

42 Bourke's minute for Col. Sec., 4 Apr. 1832, CSIL MM 4/1008. Bourke to Spring Rice, 11 Aug. 1833, BP, vol. 9, p. 205. Macleay to JDT, 6 Oct. 1833, DTP London.

43 EDT to JDT, 15 Sept. 1833, DTP London. *Sydney Gazette*, 19 Sept. 1833.

For some months after their return, Anne and Edward lived at Government House, Parramatta. When Anne became pregnant, they moved to a cottage at Woolloomooloo. There, a daughter was born on 3 September 1834. Six days later the baby was seized with a violent convulsive fit and died in her mother's arms. During 1836 they again resided for a time at Government House, before moving to a cottage in Macquarie Street, opposite the gates of the Government Domain. In November of that year, at Macquarie Street, Anne gave birth to a second daughter. The baby was christened Elizabeth after Anne's mother, who had died in 1832. She was, according to Anne, a very pretty baby, with large eyes and Edward's good temper.[44]

In 1839 the Thomsons moved into a house on Woolloomooloo Hill, which Edward named 'Barham' after his father's patron. Erected in 1833 by Colonel Snodgrass, it was constructed of rendered hand-made bricks and rested on fortress-like foundations. Although from the outside it appeared rather inelegant, inside its two floors were joined by a steep but graceful stairway. Edward's upstairs study commanded sweeping views of the Woolloomooloo Valley and enabled him to watch ships as they sailed up the harbour to Sydney Cove. 'Barham' remained the family home

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[44] Anne Deas Thomson to R. Bourke jnr, 13 May [1834], 8 Feb. 1835, 8 Jan. 1837, BP, uncatalogued MSS., set 403, item 6. Anne Deas Thomson to JDT, 17 Oct. 1834, 3 July 1836, 8 Jan. 1837, DTP London. Bourke to R. Bourke jnr, 30 July 1834, BP, vol. 6, pp. 27-8, 181. EDT to JDT, 29 Sept. 1834, DTP London.

throughout Edward's lifetime. In 1900 it was purchased for the Sydney Church of England Girls' Grammar School and it still stands as part of the School.[45]

By the time of Elizabeth's birth, the Thomsons had settled down into a regular routine of family life in New South Wales. Soon after the marriage they adopted hours which were suited to the warm summer months, when exercise was best taken in the evening. After breakfast at ten o'clock, they spent the morning together in their sitting room, Edward at his books and papers, and Anne working or reading. At three o'clock they dined, after which they rode or drove, perhaps in the Domain, until tea at eight in the evening. Anne complained to Sir John Deas Thomson that their time passed a great deal too quickly when they were together, 'but as you know what Edward's disposition and conversation are, you will not wonder at my being perfectly happy in his society'.[46]

When the legislative council was sitting, and as Edward became more involved in the government of the colony, this leisurely routine was completely upset. For example, during much of 1835, he found little time for relaxation. The council sat for five

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[45] Anne Deas Thomson to Bourke, 11 Dec. 1838, BP, uncatalogued MSS., set 403, item 6. Recollections of Elizabeth Grigg (Deas Thomson), n.d. [1880s or 1890s?], DTP London. Tape recording on 'Barham' produced by Rural Bank in 1930s, in possession of SCEGGS. I am grateful to Ms B. M. Chisholm, Headmistress of SCEGGS, for showing me over 'Barham' and for allowing me to listen to the tape.

[46] Anne Deas Thomson to JDT, 16 Dec. 1833, DTP London.

months, keeping him constantly employed. Almost every weekday, council or a committee commanded his attention. He was required to draft several bills. When in October the sitting ended, he was obliged to devote four days each week to Assigmment Board business. The Governor was anxious that Edward and Anne should stay with him as often as possible at Parramatta. This was inconvenient to Edward, as the board required his attendance at Sydney; but he could not bring himself to deny Bourke the pleasure of his daughter's company. In the evenings he was kept busy reading what Anne considered 'the absurd number of news papers published in this colony'. He found time, however, to read to Anne from such volumes as Mrs Butler's account of her visit to America.[47]

Yet social gaiety during the 1830s provided plenty of relief from the rigours of official life. In 1836 Edward and Anne attended the colony's first fancy dress ball, given by Sir John Jamison at Regentville. The couple wore Indian garments, which had the advantage of being convenient for dancing.[48] On one occasion during the following year, Anne reported that they had recently spent four consecutive nights in dissipation.[49] Anne helped organise concerts and contributed musical items. Sometimes the challenge of bringing culture to New South Wales seemed over-

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47 Anne Deas Thomson to JDT, 9 June and 4 Oct. 1835; EDT to JDT, 14 June and 24 Oct. 1835, 6 Mar. 1836: ibid.

48 Anne Deas Thomson to R. Bourke jnr, 8 Feb. and 21 Mar. 1835, BP, uncatalogued MSS., set 403, item 6. Anne Deas Thomson to JDT, 2 Apr. 1835, DTP London.

49 Anne Deas Thomson to JDT, 3-17 July 1836, ibid.

whelming. Early in 1835 Anne described an evening which she thought would be the death blow to public concerts in the colony: a Pole from Van Diemen's Land attempted an Italian song, and failed completely; a Mrs Taylor 'gasped and panted as much as usual'; and the band of the 17th Regiment played a very bad selection in a most *unamiable* manner.[50] Edward made his own contribution to social life in New South Wales by helping to found the 'Sydney hunt'. The 'deer', or dingoes, were plentiful around Cook's River, and afforded 'excellent sport, though shocking bad venison'.[51]

Whenever possible Edward and Anne journeyed into the country. Towards the end of 1834 they visited their grazier friend, Thomas Icely, at his property thirty miles beyond Bathurst. They travelled by a light phaeton, and took their riding horses for the rough patches in the road. The outward journey of 158 miles took three days. When they eventually reached Icely's property at Coombing they were delighted by the beauty of the countryside, which was in an entirely natural state.[52]

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50 Two musical programmes in Anne's hand, n.d., ibid. Anne Deas Thomson to R. Bourke jnr, 8 Feb. 1835, BP, uncatalogued MSS., set 403, item 6.

51 Anne Deas Thomson to R. Bourke jnr, 8 Feb. and 21 Mar. 1835, BP, uncatalogued MSS., set 403, item 6. EDT to JDT, 10 Feb. 1835, DTP London. EDT to R. Bourke jnr, 17 June 1836 [see n.10, p. 53 above], BP, uncatalogued MSS., set 403, item 6.

52 Anne Deas Thomson to JDT, 31 Oct. and 13 Nov. 1834, DTP London. Also King, op. cit., p. 184.

By the end of 1836 Thomson had been eight years in New South Wales. The unpromising penal settlement which had repelled him on his arrival was now a thriving colony, with a population of over 77,000.[53] The Reverend Samuel Marsden was astonished by the progress of the colony. The main street of Sydney, he observed, was over two miles long and was lined with well-built houses.[54] Early in 1836, Thomson told his father that despite a severe drought the revenues were increasing beyond all precedent. The need, which he had recognised in 1830, for staple articles of export was now being realised in the remarkable growth of the wool industry.[55] Wool exports to England rose in value from £40,851 in 1828 to £369,324 in 1836. In the same period the value of all exports from the colony increased from £90,050 to £748,624. The value of imports, another reliable gauge of prosperity, also rose dramatically.[56]

The colony, under Governor Bourke, had experienced rapid development in its political institutions. Bourke expressed firm hopes that representative government would be introduced in

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53 Statistical View of the Progress of New South Wales, from the Year 1821 to 1858 inclusive, enclosure in Denison to Newcastle, 23 Sept. 1859, PP 1860 (2711-I), Vol. XLIV, p. 67.

54 Marsden to Rev. William Ellis, 24 June 1833, London Missionary Society Archives (Australia), Box 3, Folder 1, Jacket A. I owe this reference to Professor A. T. Yarwood.

55 EDT to JDT, 7 Apr. 1830, 6 Mar. 1836, DTP London.

56 Statistical View ..., PP 1860 (2711-I), Vol. XLIV, p. 67.

the near future. Thomson observed, in 1834, that 'even in our infant Legislature subjects of great general interest have been canvassed and treated in a manner which would do credit to an older Country'.[57] There was a pride in that statement: for Thomson had come to identify himself with the colony's advancement and its aspirations.

His own situation in 1836 was very different from that of eight years earlier. He was now happily married, with a family of one 'Currency lass' and the prospect of more 'little Australians'.[58] He was playing a prominent part in Sydney society. His performance as Clerk of the Councils had favourably impressed Governors Darling and Bourke: the latter to such an extent that in 1835 he suggested his appointment to the important position of Colonial Secretary, to replace Alexander Macleay. That appointment, which took place on 2 January 1837, stimulated a heated controversy; and it raises for the historian several problems which require the attention of a separate chapter.

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57 Bourke to R. Bourke jnr, 21 Aug. 1836, BP, vol. 6, p. 195. EDT to JDT, 21 July 1834, DTP London.

58 See King, op. cit., p. 172.

COLONIAL SECRETARY: APPOINTMENT AND APPRENTICESHIP

c. 1835 - 1837

During the last few days of 1836 Alexander Macleay, in a state of great perturbation, cleared his desk at the colonial secretary's office and collected his personal belongings from the room which he had occupied for almost eleven years. On Monday 2 January 1837, while Macleay complained that he had been treated in a 'very unceremonious and unhandsome manner', Governor Bourke issued to his son-in-law, Edward Deas Thomson, letters patent appointing him Colonial Secretary and Registrar of the Records of New South Wales.[1]

Macleay's dismissal and Thomson's appointment to his situation represented the culmination of a complex series of events which are interesting from several points of view. While they afford valuable insight into Thomson's character, as well as that of his father-in-law, they are also significant in a broader context. An examination of the proceedings will illustrate the conduct of colonial administration in the 1830s, both within the colony and in the

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[1] Macleay to Bourke, 29 Dec. 1836, enc. in Bourke to Glenelg, 3 Jan. 1837, *HRA*, I, 18, pp. 639-41. Some sections of this chapter appear, in an amended form, in my article, 'A Piece of Sharp Practice? Governor Bourke and the Office of Colonial Secretary in New South Wales', *HS*, Vol. 16, No. 64, April 1975.

Colonial Office, and between Downing Street and New South Wales. We shall see, in particular, that the circumstances leading to Macleay's replacement by Thomson throw light on the executive and legislative functions of the colonial secretary and his relationship with the governor, on the operation of patronage in early nineteenth century Britain and Australia, and on the internal organisation of the Colonial Office.

Just as the early clerks of the council had become involved in dissensions, so Thomson's predecessors as colonial secretary often had been at the centre of discord. The first Colonial Secretary and Registrar of the Records in New South Wales was Major Frederick Goulburn, who assumed office in 1821. Goulburn was a diligent officer, but jealous of the duties and authority of his station. Without any precise instructions from the Colonial Office regarding his functions, he argued that orders and warrants issued by the governor were invalid unless they passed through his department. This view was in part responsible for a conflict which developed between himself and Governor Brisbane, and contributed substantially towards the recall, in 1824, of both men.[2]

When the Colonial Office came to appoint successors to Brisbane and Goulburn, it was naturally anxious to ensure that a

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[2] Goulburn to Sir Thomas Brisbane, 19 Apr. 1824, enc. in Brisbane to Bathurst, 1 May 1824, *HRA*, I, 11, p. 258. Bathurst to Brisbane, 28 and 29 Dec. 1824, ibid., pp. 429-30. Entry by Vivienne Parsons on Goulburn, *ADB*, Vol. 1, pp. 463-4. C. H. Currey, *Sir Francis Forbes: The First Chief Justice of the Supreme Court of New South Wales*, Sydney 1968, pp. 124-6.

similar conflict should not occur. On the advice of James Stephen, at that time Counsel in the Office, the Secretary of State warned Governor Darling that he must not allow the colonial secretary to influence his decisions; he alone would be responsible for every act done in his name. Lord Bathurst told Darling that the colonial secretary was to conduct, under the governor's direction, all official correspondence in the colony, and to act as the medium of communication through which the governor conveyed his orders to individuals and to the community at large. He was to assist the governor 'on every occasion, on which you may require such assistance, and in the manner which you may think fit to prescribe'.[3]

Bathurst also took great care in choosing a successor to Goulburn. He wanted a man of established administrative ability, who would yet be unlikely to challenge the authority of the governor. After 'considerable delay and much deliberation',[4] he discovered in Alexander Macleay one whom he hoped would fill these requirements. Macleay had distinguished himself as an efficient and faithful servant of government. Moreover, as we have seen, he shared the staunch Tory outlook of Darling.

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[3] Stephen to R. W. Horton, 21 Mar. 1825, *HRA*, IV, 1, p. 594. (In *HRA* this despatch is incorrectly dated 27 Mar.: see CO 201/164, f.284.) Bathurst to Darling, 14 July 1825, *HRA*, I, 12, pp. 18-19.

[4] John Macarthur jnr to his father, 27 Dec. 1824, Macarthur Papers, Vol. 15, MS. no. A2911, p. 235, ML.

The Colonial Office most probably regarded this as a further qualification for his appointment, for it had often shown a propensity for installing like minds in positions where mutual confidence was essential.[5]

Following his arrival in New South Wales, early in 1826, Macleay quickly became a close friend of the Governor. As an administrator under Darling he was industrious and conscientious. Thomson frequently expressed concern that his 'excellent and worthy friend' was 'fagging himself to death' with official business.[6] Macleay warmly supported Darling's policies. Indeed, so closely did the views of Governor and Colonial Secretary become identified in the eyes of the colonists that, on the eve of Darling's departure for England, the *Monitor* warned that 'the removal of General Darling will be useless, unless accompanied with that of Mr. M'Leay'.[7]

Obviously, the choice of Macleay as Darling's Colonial Secretary had been judicious. However, when Darling returned to England towards the end of 1831, Macleay was left to serve a governor who held very different political views. Although

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[5] Notable examples in New South Wales of this practice include the appointment of the Bent brothers, and of John Wylde and Barron Field, to judicial positions.

[6] EDT to JDT, 23 Feb. and 26 Apr. 1831, DTP London.

[7] See *Sydney Monitor*, 20 Jan. 1837.

the outward relations between Bourke and Macleay were initially amicable,[8] Fanny Macleay noticed a few months after Bourke's arrival that her father was inwardly unhappy about the new Governor's attitude towards him.[9] Thomson told his father-in-law the wheels of government were sadly clogged 'when any of the higher officers want that zeal which is absolutely necessary to efficiency'.[10]

Bourke complained frequently of administrative laxity in the colonial secretary's office. In his view, Macleay and the 'Official Tories' were thwarting his ambitions for his government and his plans for the colony's future. Macleay, on the other hand, believed that Bourke was prejudiced against him from the start, and recognised that the Governor himself was not fond of routine administration. There was undoubtedly some justice on each side.[11]

Bourke determined, probably late in 1834, that Macleay had to go.[12] However, the Colonial Secretary had been appointed by the King's commission, and consequently could be relieved from office only with the King's consent, expressed through the Secretary of State for War and the Colonies. The Governor was therefore obliged to convince the Colonial Office that this

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[8] See, for example, Bourke to Col. Sec., memorandum no. M1841, 20 Apr. 1832, CSIL MM 4/996.

[9] Fanny Macleay to W. S. Macleay, 24 Mar. 1832, Fanny Macleay letters in private possession.

[10] EDT to JDT, 10 Feb. 1835, DTP London.

[11] See Foster, 'A Piece of Sharp Practice?', pp. 405-8.

[12] See Bourke to R. Bourke jnr, 24 Nov. 1834, BP, vol. 6, p. 18.

measure was essential to the effective government of the colony.

Convincing the Colonial Office was no easy matter. Bourke entrusted this task largely to his son Dick, who in 1834 had left the colony to study law at the Inner Temple. Although Dick Bourke proved himself a forceful advocate of his father's claims, his early efforts were unavailing. Eventually, in August 1835, the Secretary of State, Lord Glenelg, expressed a willingness to appoint a new colonial secretary if the problem of duplicating the existing incumbent could be removed.[13]

In the meantime, Dick Bourke's efforts in Downing Street were being overtaken by events in the colony. Early in June, the Governor and the Colonial Secretary came into direct conflict in the legislative council. The occasion was the second reading of a bill which Bourke had introduced for regulating the affairs of the colony's postal department. The bill incorporated clauses designed to restrict the use of franking by public officers, a practice which the Postmaster-General considered had been much abused.[14] According to Bourke, Macleay 'violently opposed' the provisions relating to franking and, during the course of warm debate, 'publickly announced the probability of his retirement within a year'.[15] Immediately Bourke wrote to England to tell

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[13] R. Bourke jnr to Bourke, 22-25 Aug. 1835, ibid., vol. 12, p. 88.

[14] Bourke to Glenelg, 24 Dec. 1835, *HRA*, I, 18, p. 240.

[15] Bourke to Earl of Aberdeen, 1 Aug. 1835, ibid., p. 57. Bourke to Glenelg, 24 Dec. 1835, ibid., p. 240.

his son the news and, some two months later, penned a formal despatch to the Secretary of State, informing him of Macleay's proposed retirement.[16] By the end of November, Dick Bourke could confidently tell his father that Downing Street was ready to appoint a successor to Macleay.[17]

Thomson watched these proceedings in the colony intently, and urged his father to support his application for the position. He recognised that the situation was one of 'great labor and responsibility'. The colonial secretary, whoever he might be, would be forced to bear the brunt of 'many a hard rub': he would be attacked by the press and regarded with jealousy by officials and civilians who received communications which were not to their liking. However, Thomson felt that these considerations could not deter him. He was a married man, with the prospect of a family. His duty therefore forced him to put personal qualms aside. He found that, even without children, his present salary of £600 a year was scarcely adequate to meet the cost of living in the colony, which

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16 Bourke to R. Bourke jnr, 6 June 1835, BP, vol. 6, p. 67. Bourke to Aberdeen, 1 Aug. 1835, *HRA*, I, 18, p. 57. Bourke's delay in writing to the Secretary of State requires some explanation, for more cynical readers might suggest that he was prompted to report Macleay's supposed resignation when he learnt that a Whig government had been returned to power at Westminster. However, news of the formation in April 1835 of Lord Melbourne's second cabinet did not reach the colony until 11 August, nine days after Bourke's despatch had left the colony. (*SH*, 13 Aug. 1835, editorial, and shipping intelligence.) In fact the Governor was simply awaiting the departure of the first ship for London before preparing his letter. Perhaps he anticipated that Macleay would say something more about his retirement in the meantime.

17 R. Bourke jnr to Bourke, 26 Nov. 1835, BP, vol. 12, p. 103.

was considerably higher than in England. The colonial secretary's salary of £2,000 would provide him with far greater security than he at present possessed. He was also attracted by the challenges which Macleay's position would offer him.[18]

Thomson's supporters launched a formidable barrage on the Colonial Office in favour of his appointment. In August 1835 Bourke wrote to the Secretary of State recommending his son-in-law as Macleay's successor.[19] Dick Bourke maintained constant pressure on Glenelg and Stephen. Thomas Spring Rice, Chancellor of the Exchequer and a close friend of the Governor, spoke to Glenelg on Thomson's behalf.[20] Needless to say, Sir John Thomson addressed the Colonial Office personally, and enlisted the support of Lord Barham, who only recently had received a gift of seeds from the sedulous Edward.[21] The candidate himself sought the support of Robert Hay, not knowing that the Under-Secretary's influence was rapidly waning.[22]

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[18] EDT to JDT, 1 Aug. 1835, DTP London.

[19] Bourke to Aberdeen, 1 Aug. 1835, *HRA*, I, 18, pp. 57-8.

[20] R. Bourke jnr to Bourke, 26 Nov. 1835, BP, vol. 12, p. 103. R. Bourke jnr to Bourke, n.d. [Jan. 1836], DTP London.

[21] Index references to JDT to Colonial Office, 1 Jan. and 16 Jan. 1836, CO 201/258, f.704. Index reference to Barham to Colonial Office, 2 Jan. 1836, CO 201/257, f.688. The originals of these letters are recorded in the indexes as missing, but indications of their contents are given. EDT to JDT, 17 June 1836, DTP London.

[22] EDT to JDT, 1 Aug. 1835, DTP London; and see below, pp. 134-6.

It seemed at first that the Colonial Office would willingly support the nomination.[23] However, in the second week of January 1836 Glenelg and Stephen informed Dick Bourke that the relationship between Thomson and the Governor put a bar to the arrangement which they did not know how to remove. Dick Bourke pointed out that such relationships had never been allowed to stand in the way of similar appointments in the past. He stressed Thomson's suitability for the position, and mentioned his father's character in order to remove any possible suspicion that the nomination was a 'job'. Glenelg and Stephen conceded these points, but their objections to the appointment were not allayed.[24] Sir John Thomson was so distressed by their intransigence that he became very ill.[25] Dick Bourke, however, did not despair, and continued, as one relative put it, 'fighting Edward Thomson's battle furiously'.[26] He told his father that he would not diminish one jot in his exertions, for he was 'so conscious of the *right* you have to claim this (a right which they *all confess*) & of the extreme

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[23] Bourke to R. Bourke jnr, 6 June and 27 June 1835, BP, vol. 6, pp. 67-70. R. Bourke jnr to Bourke, 26 Nov. 1835, ibid., vol. 12, pp. 103-4.

[24] R. Bourke jnr to Bourke, 19 Jan. 1836, ibid., pp. 113-16.

[25] Mary Jane Perceval to Bourke, 4 Feb. 1836, BP, uncatalogued MSS., set 403, item 6.

[26] D. M. Perceval to Bourke, 19 Jan. 1836, ibid.

injustice of Edward's suffering in his prospects from a connexion with our family'.[27] Eventually his exertions met with success. In mid-February, he was able to report with much satisfaction that James Stephen, presumably having 'amused himself by coquetting with us for the last month', had acceded to Thomson's nomination.[28] Towards the end of the month the Secretary of State despatched to Sydney a warrant appointing Thomson Colonial Secretary and Registrar of the Records.[29]

The battle was over, but not the campaign, which now entered a final, anti-climactic phase. On the day that Thomson first heard unofficially of his appointment, he related the news to Macleay's son, George, and explained his motives in applying for the situation of colonial secretary. From George Macleay he learnt that there was no immediate prospect of 'the old Gentleman' retiring. Needless to say, he was greatly disheartened by this news, chiefly regretting the disappointment it would occasion his father. His feelings were somewhat assuaged by a successful hunt the following morning and, in due course, he was able to consider his setback philosophically.[30]

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[27] R. Bourke jnr to Bourke, 19 Jan. 1836, BP, vol. 12, p. 115.

[28] R. Bourke jnr to Bourke, 18 Feb. 1836, ibid., p. 119.

[29] Warrant appointing Thomson Colonial Secretary, dated 2 Jan. 1837, DTP, vol. 1, p. 23. Glenelg to Bourke, 26 Feb. 1836, *HRA*, I, 18, p. 297.

[30] EDT to R. Bourke jnr, 17 June 1836, BP, uncatalogued MSS., set 403, item 6. (Thomson incorrectly dated this letter 17 Feb. 1836, but the correct date is given on the envelope.)

While Thomson thus resigned himself to the situation and reflected upon the mutability of human will, Bourke was determined to 'bring matters to a point'.[31] As the year 1836 progressed, relations between Governor and Colonial Secretary continued to deteriorate. In June, Bourke complained to Sir John Thomson that his personal labour was infinitely increased by the civil service cabal, led by Macleay, while his measures were actually thwarted or rendered abortive.[32] In that month, the Colonial Secretary became embroiled in the conflict over Bourke's project to introduce a system of national schools. Both inside and outside the legislative council, Macleay distinguished himself as a leading opponent of these proposals. Thomson, who was losing sympathy with Macleay's apparent determination to retain office indefinitely, confided to his father that the Colonial Secretary's stance might have some bearing on his own prospects.[33] He guessed correctly, for when the Governor received late in August the warrant appointing Thomson colonial secretary he determined to give it effect, despite Macleay's refusal to resign. Following Colonial Office directions, he delayed the changeover a 'moderate and reasonable period'. When he ultimately issued to Thomson the warrant of appointment, he ended a campaign to secure a new

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[31] Bourke to R. Bourke jnr, 29 Apr. 1836, ibid., vol. 6, p. 168.

[32] Bourke to JDT, 14 June 1836, DTP London.

[33] EDT to JDT, 21 Aug. 1836, ibid.

colonial secretary which had now extended well over two years.[34]

The circumstances of Macleay's removal and Thomson's appointment created considerable excitement in the colony. The *Sydney Gazette* thought it disgraceful that respectable men, after forty years service to the community, could be treated with no more ceremony than dogs. John Dunmore Lang's *Colonist* charged that Macleay had been removed in order to create *'a snug vacancy'* for Thomson. Agreeing with this view, the *Sydney Herald* pointed out the inconsistency of Whig principles and Whig practice. Bourke also had his defenders. According to the *Monitor*, Macleay's dismissal was long overdue. The *Australian* gloated over the colonial Tories 'writhing under defeat', and suggested that the supersession of Macleay represented 'the knell of Tory rule in New South Wales'.[35]

Historians also have disagreed regarding the propriety of the proceedings. A. G. L. Shaw has cited the replacement of Macleay when arguing that Richard Bourke was not perhaps the model of virtue that has so often been portrayed. He has suggested that Bourke's action on this occasion was 'part of what captious critics might consider a piece of sharp practice'.[36] Hazel King, on the

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[34] Bourke to Glenelg, 3 Jan. 1837, and enclosures, ibid., pp.637-41.

[35] *Sydney Gazette*, 5, 7 and 21 Jan. 1837. *Colonist*, 5 Jan. 1837. *SH*, 9 and 19 Jan., and 13 Feb. 1837. *Monitor*, 18 Jan. 1837. *Australian*, 17 Jan. 1837.

[36] A. G. L. Shaw, *Heroes and Villains in History: Governors Darling and Bourke in New South Wales*, Sydney 1966, p. 27. See also Professor Shaw's review of Hazel King's *Richard Bourke*, *HS*, Vol. 15, No. 58, April 1972, p. 290.

other hand, has discussed the question in a manner which tends to vindicate Bourke's activities. While conceding that the removal might have been more tactfully handled, she argues that it was well justified. She points out that it was not uncommon practice for a near relative of a governor to be nominated to a post in his government. Should Bourke,she asks, have refrained from recommending Thomson simply because he happened to be his son-in-law?[37]

The main criticism of the proceedings is clearly unfounded. As Dr King demonstrates, Bourke had decided upon Macleay's removal well before he suggested Thomson as colonial secretary. In fact, he had first proposed William Macpherson, the Collector of Internal Revenue, to fill the vacancy.[38] But further questions remain, the answers to which relate in different ways to Thomson's career. Should Macleay have been removed? Once the removal had been decided upon, should Thomson have been appointed colonial secretary whilst his father-in-law was governor? Did Bourke employ 'proper' means to secure his appointment? These questions must be asked in a British as well as in a colonial context, for the campaign took place in the 1830s climate of governmental reform, when liberals were questioning deeply entrenched practices, including that of patronage.

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37 *Richard Bourke*, Melbourne 1971, pp. 232-7. See also Dr King's review article, 'Villains All?', *JRAHS*, Vol. 53, Part 1, Mar. 1967, pp. 72-86.

38 Ibid., p. 234. Bourke to Aberdeen, 1 Aug. 1835, *HRA*, I, 18, pp. 57-8.

The problem of Macleay's removal gives rise to two important questions relating to the office of colonial secretary. Firstly, in his capacity as a legislative councillor, to whom was he responsible? Secondly, as a colonial civil officer, what were his conditions of tenure?

The colonial newspapers debated at length the constitutional legality of Macleay's removal. Whether they were supporting or condemning Bourke's action, they argued mostly by analogy with British institutions.[39] These analogies were somewhat misleading, for there were great differences in the 1830s between Westminster institutions and colonial governments. At the time of the debate in New South Wales, colonial councils were far removed, both in function and structure, from the houses of parliament, while the duties and responsibilities of colonial officials were equally remote from those of British ministers.[40] Thus when the *Sydney Herald* argued that Macleay had as much right to speak independently in the legislative council as any member of parliament had to express his own view in the House of Commons, it was not taking account of these substantial differences. Moreover, its arguments

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[39] For example, *Australian*, 17 Jan. 1837; *Sydney Monitor*, 18 Jan. 1837; *SH*, 13 Feb. 1837.

[40] See Martin Wight, *The Development of the Legislative Council 1606-1945*, London 1946, passim; and J. J. Breitenbach, 'The Development of the Secretaryship to the Government at the Cape of Good Hope under John Montagu', *Archives Year Book of South African History*, 1959, ii, pp. 181-4.

revealed a misunderstanding of the specific reasons for the establishment of the legislative council in New South Wales. What was the use of a legislative council, the editor asked, if it were not intended that its members should be able to express themselves freely? Why not dispense entirely with the mockery of a council and invest the governor with absolute powers?[41] The *Herald*'s editor could hardly have guessed the motives of the Colonial Office when the council was first planned: it was established not with the purpose of limiting the governor's autocracy or of granting colonists a greater say in their own affairs, but 'merely for purposes of administrative convenience'.[42] The council was intended to fulfil the specific function of legislating on matters which might be dealt with more readily in Sydney than in London. It seemed likely to afford 'the simplest and surest means of legalizing the necessary legislative acts'.[43]

In view of the British government's intentions, it is not remarkable that the first council was composed entirely of official members. Although a civilian component was introduced in 1825 and later enlarged as the functions of the council changed, an official majority was maintained until partially representative government was first introduced by the New South Wales Government Act of 1842. The retention of this majority seems to indicate

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[41] *SH*, 13 Feb. 1837.

[42] Melbourne, *Early Constitutional Development*, p. 96.

[43] Ibid., p. 112. See also Currey, op. cit., p. 40.

that official members were expected to support the governor's legislative proposals. But if such an obligation were intended, it remained unstated. Hazel King is thus mistaken when she argues that, 'In theory', Bourke should have been able to count on the votes of officials which, together with his own original and casting vote, would have assured him of an official majority.[44] There was, in fact, no theory regarding the responsibility of civil officers in their legislative capacity. Although their subordination as executive officers to the governor was stated unequivocally,[45] their relationship to him as legislative councillors remained undefined.

Richard Bourke failed to see any ambiguity in Macleay's position. It was the duty of officials, Bourke argued, to be willing tools of the governor and to support the measures that he, as the King's representative, proposed. In his view, the 'Official Tories'of New South Wales were eating the King's bread while, at the same time, opposing the King's government.[46] However, the position of civil officers in the colony who were also members of the legislative council was clearly anomalous.

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[44] King, *Richard Bourke*, p. 156. See also J. W. Cell, *British Colonial Administration in the Mid-Nineteenth Century*, New Haven 1970, p. 60.

[45] Bathurst to Darling, 14 July 1825, *HRA*, I, 12, p. 19.

[46] Bourke to Spring Rice, 15 Aug. 1835, BP, vol. 9, p. 241. Bourke to R. Bourke jnr, 7 Nov., 30 Nov. and 26 Dec. 1835, ibid., vol. 6, pp. 99, 108 and 122-4. It should be noted that Bourke, on a later occasion, outlined with considerable clarity the difficulties of the colonial secretary's position. See below, pp. 176-7.

The perceptive James Stephen, as early as 1825, had expressed his disquiet to the Secretary and Under-Secretary of State:

> Objections...would seem to exist to the Colonial Secretary occupying a Seat in the Council. It being the appropriate duty of his Office to act under the direction of the Governor, and in a character entirely subordinate to his, the incongruity of rendering him in Some Sense the Colleague of his Official Superior, and of enabling him, in his Legislative character, to counteract the very resolutions which, in his official character, he is bound to carry into effect, might not improbably prove the germ of discord.[47]

It may seem strange that this warning went unheeded. However, as Stephen commented, the appointment of the colonial secretary to the legislative council was apparently consistent with earlier practice.[48] In colonies possessing representative institutions civil officers were permitted to hold seats in the legislative assembly. Moreover, the Colonial Office was not in the habit of providing for every contingency. If the Secretary of State considered Stephen's objection, he might well have argued that the colonial secretary's appointment to the legislature was appropriate to immediate needs, and that any anomaly would disappear as the council evolved in response to future requirements.

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47 Stephen to Horton, 21 Mar. 1825 [see n.3, p. 110 above], *HRA*, IV, 1, p. 598. See also *Australian*, 17 July 1829.

48 Stephen to Horton, 21 Mar. 1825 [see n. 3, p.110 above], *HRA*, IV, 1, p. 597. See also W. L. Morton, 'The Local Executive in the British Empire 1763-1828', *English Historical Review*, vol. LXXVIII, no. CCCVIII, July 1963, p. 454.

During the early 1830s, the policy of allowing officials to sit in representative assemblies in the Canadas caused the Colonial Office inconvenience. When the two law officers of the Crown, H. J. Boulton and Christopher Hagerman, voted in the assembly of Upper Canada against the wishes of the Office, Lord Goderich, in 1833, ordered their dismissal and directed that officials should in future support government policies or resign their seats in the legislature.[49]

With regard, however, to New South Wales, where certain officials were *obliged* to sit in the legislative council, the Colonial Office prevaricated. The Secretary of State's despatch appointing Thomson as Macleay's successor avoided any reference to the constitutional position of the colonial secretary as a legislative councillor.[50] Macleay's ostensible retirement relieved the Office of the immediate necessity of defining his status and duties. It was not until the implications of representative government were being considered in the early 1840s that the role of government officers in the legislative council was defined with any degree of clarity, and even then

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[49] Although Goderich's successor, Lord Stanley, reappointed Hagerman to his former office and appointed Boulton to Newfoundland as Chief Justice, the policy which Goderich outlined remained essentially unchanged. This issue is discussed in Phillip Alfred Buckner, Colonial Office Government in British North America, 1828-1847, Ph.D. thesis, University of London, 1969, pp. 138-40, 159-66.

[50] Glenelg to Bourke, 26 Feb. 1836, *HRA*, I, 18, pp. 297-8.

ambiguities remained.[51]

While the British government thus put aside discussion of this aspect of the colonial secretary's responsibilities, a clear policy was emerging on the relationship, in a broader context, between civil officers and the governor. At the time when Macleay's removal was being considered, the majority of civil officers, including colonial secretaries, were appointed during the royal pleasure, but in practice their tenure had become permanent, subject to good behaviour.[52] However, since the early 1830s this assumption of permanence had been frequently challenged. In 1832 the Colonial

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[51] See especially Lord Stanley to Sir George Gipps, 1 Jan. 1845, ibid., 24, pp. 162-4. A later example of the confusion which remained on this subject occurred in 1852 in Van Diemen's Land. Two government officers, H. S. Chapman and Adam Turnbull, conscientiously opposed Lieutenant-Governor Denison on the anti-transportation question. Both Chapman and Turnbull recognised that they were liable to be removed from the legislative council, but Turnbull argued that he should retain his official appointment. See W. A. Townsley, *The Struggle for Self-Government in Tasmania 1842-1856*, [Hobart] 1951, pp. 111-21. The thorny problem of official nominees who opposed the governor on questions of conscience was considered in depth in 1868, in a despatch of the Duke of Buckingham relating to West Indian affairs. See Wight, op. cit., pp. 108-9.

[52] J. R. M. Butler, 'Colonial Self-Government, 1838-1852', in *The Cambridge History of the British Empire*, Vol. II, Cambridge 1940, p. 347, This development was not confined to the colonies, for the principle of clerks holding office during good behaviour had long been firmly entrenched in British government departments. Emmeline W. Cohen, *The Growth of the British Civil Service*, London 1941, p. 26. The case of George Chalmers, Chief Clerk at the Board of Trade, affords an interesting example of the difficulty of dismissing a public officer. Although he had ceased to enjoy the full confidence of his superiors, and received much implied criticism, he was able to retain office until his death in 1825 at the age of eighty-three. Grace Amelia Cockroft, *The Public Life of George Chalmers*, New York 1939, pp. 111-18.

Office was asked to review the case of J. T. Gellibrand, the Attorney-General of Van Diemen's Land, who had been dismissed in 1826 for improper conduct. Stephen, in a minute for the Permanent Under-Secretary, R. W. Hay, observed that Gellibrand appeared to believe that the office of attorney-general was held as 'a sort of patent right', from which he could not be removed except upon proof of actual delinquency. According to Stephen, this interpretation of the situation was entirely mistaken. Gellibrand, because he did not hold Lieutenant-Governor Arthur's confidence, was clearly unsuited to the office he had held. Therefore, 'the interests of the public service' required that he be replaced by another officer. Stephen proposed that this should be stated by the Colonial Office as a sufficient reason for Gellibrand's removal. Hay, however, believed that the then Secretary of State would be saying 'more than he could fairly substantiate' if he were to suggest that Gellibrand had been removed on grounds which did not directly question his integrity. Hay's view prevailed, and the Secretary of State simply declined to reopen the case.[53]

Four years later, when the proposal that Macleay should be removed came before the Colonial Office, Stephen, as we shall see, was in a stronger position to influence the course of events.

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[53] Arthur to Goderich (duplicate), 14 Jan. 1832, and minutes by Stephen and Hay, 12 and 16 July 1832, CO 280/33, ff.13-20. Goderich to Arthur (copy), 19 July 1832, CO 408/9, f.113. Entry by P. C. James on Gellibrand, *ADB*, vol. 1, pp. 437-8.

He was adamant that Macleay had to go. One of the chief objections to Macleay in Stephen's mind was his possession of a pension which he had received for his services as Secretary to the Transport Board from 1806 to 1815. This was paid out of colonial funds and augmented his salary as Colonial Secretary. In conversation with Francis Forbes, Stephen spoke of the pension 'in no very measured terms', confessing that he had always regarded it as public plunder.[54] Glenelg, however, was reluctant to take immediate action: he wondered if proper means could be found for removing the Colonial Secretary; he thought that Macleay's removal would lead to difficulties regarding the continued payment, out of colonial funds, of the Transport Board pension; he suggested that Governor Bourke lodge a formal complaint against Macleay, a process which would cause much delay. In short, true to his reputation, Glenelg procrastinated.[55] Dick Bourke attributed

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[54] Forbes to Bourke, 28 Oct. 1836, BP, vol. 11, p. 560. For further indications of Stephen's concern with Macleay's pension, see Stephen to W. S. Macleay (draft), 9 Sept. 1836, CO 201/258, ff.178-9; and his first minute on Gipps to Glenelg, 11 Apr. 1838, CO 201/272, f.198.

[55] For various contemporary views of Glenelg, see *SH*, 13 Aug. 1835; entry for 9 June 1836 in 3rd Earl Grey's Journal, Papers of the 3rd Earl Grey, University of Durham (Grey's title in 1836 was Viscount Howick); Stephen to Mrs Austin (copy), 12 Feb. 1839, James Stephen Papers, Box 1 (b): MS. no. ADD. 7888, Cambridge University Library; also Stephen, quoted in Paul Knaplund, *James Stephen and the British Colonial System 1813-1847*, Madison 1953, p. 16n. Although Stephen held Glenelg in high esteem, he nonetheless recognised his tendency to procrastinate: see Stephen to Howick, 8 Feb. 1845, Stephen Papers, Box 2(ii). Later estimates of Glenelg's character and contribution to colonial administration include J. R. M. Butler, loc. cit., p. 335; and Clark, *A History of Australia*, vol. II, pp. 327-8.

this apparent lack of interest in the Colonial Office to its preoccupation with other colonies 'whose loud complaints and disturbances are frequently made the matter of debate in the H. of Commons'.[56] Certainly, this preoccupation was one of the New South Wales colony's perennial problems, and doubtless it contributed to the delay on this occasion. However, as we shall soon see, there was another influence which caused the Colonial Office to avoid an immediate decision.

When the Office eventually decided to appoint Thomson, on the assumption that Macleay would soon submit his resignation, Glenelg evinced a similar hesitancy. In his despatch announcing the appointment, he told Bourke that he would not under normal circumstances recommend an appointment to any office which had not actually been vacated by the death or resignation of its previous incumbent. However, in the present case there were special circumstances to be taken into account: Macleay's advanced age, his length of public service, his actual possession of a pension, and 'his own avowal of his purpose to retire from Public life'. Most important, according to Glenelg, was the need to fortify the Governor in anticipation of a new system of government which might result from coming changes in the New South Wales Act.[57]

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[56] R. Bourke jnr to Bourke, 24 June 1835, BP, vol. 12, p. 71.

[57] Glenelg to Bourke, 26 Feb. 1836, *HRA*, I, 18, pp. 297-8.

A. C. V. Melbourne has used this despatch, and other episodes concerning the Governor's relations with executive officials, to argue that the Secretary of State was not always willing to uphold the governor's authority. He has pointed out that Glenelg's despatch was hesitant and evasive, and that 'no Governor could have read it with satisfaction'.[58] But the hesitancy about the despatch did not arise from any reluctance on the part of the Colonial Office to support the Governor. Rather, the long delay of the Office in reaching a decision, and the equivocal manner in which that decision was eventually expressed, may be attributed to the nature of Bourke's proposal. It must have been apparent to both Glenelg and Stephen that the removal of Macleay against his will would be hotly contested, especially in view of the long-standing assumption that civil officers in the colonies retained their situations during good behaviour.[59] Because Glenelg and Stephen were on unsure ground, they advanced several reasons for Thomson's appointment. Chief amongst these, but not considered sufficient in itself, was the need to strengthen the Governor's authority. As yet the Colonial Office was unwilling to state that

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[58] Melbourne, op. cit., pp. 164-8.

[59] Any anxiety which the Office may have felt would have been well-founded. When Macleay later applied for compensation for his removal, Glenelg, Stephen and Sir George Grey (Parliamentary Under-Secretary) took great care in framing a reply which they hoped would not be open to dispute. See the Office minutes and draft replies with Gipps to Glenelg, 11 Apr. 1838, CO 201/272, ff.197-216.

civil officers could be removed at the Governor's pleasure.

However, in the months following Thomson's appointment, the views of the Office regarding the problem of tenure emerged with greater clarity. In December 1835, a former Under-Secretary at the Colonial Office, Viscount Howick, had proposed to Glenelg that the tenure of certain offices in Canada should no longer be regarded as permanent.[60] And in May 1836, the Commission led by Lord Gosford to investigate grievances in Lower Canada suggested that the governor should be able to dismiss an executive councillor on any grounds he might deem advisable, without assigning any specific fault to his behaviour.[61] The attitudes of the Colonial Office were also influenced by developments in New South Wales involving the Colonial Treasurer, C. D. Riddell. In a series of circumstances which need not be detailed here, Riddell so thwarted the Governor's wishes that Bourke suspended him from the executive council. The Secretary of State, owing to a legal technicality, was unable to uphold the Governor's authority on this occasion and ordered Riddell's reinstatement.[62] In so doing, he analysed the duties and responsibilities of civil officers in the colonies.

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60 Howick to Glenelg, 10 Dec. 1835, Grey Papers, University of Durham.

61 Third Report of the Commissioners appointed to inquire into the grievances complained of in Lower Canada, 3 May 1836, PP, vol. XXIV, 1837(50), p. 114. On the significance of this suggestion see n.69, p. 134 below.

62 Hazel King (*Richard Bourke*, pp. 239-40) suggests that there may have been other reasons for Glenelg's failure to support the Governor. However, see n.2, p. 145 below.

He told Bourke:

> It is the duty of every subordinate officer under your command, whose functions are such as to place him in a very close and confidential relation to you, to make his choice between a cordial and zealous support of your administration or a resignation of the office entrusted to him. To that principle I attach great importance and subscribe to it without reserve.[63]

Although Glenelg's analysis did not relate to the Colonial Treasurer's position as a legislative councillor, it nonetheless represented an advance towards a definition of the tenure of civil officers. The situation was further clarified in response to agitation by Macleay's eldest son, William. Recently arrived in England, William Macleay argued that his father had apparently lost office through a mistake rather than any neglect of duty, and consequently, was entitled to a substantial retiring gratuity for his services in New South Wales.[64] When he persisted with his demands, Stephen replied that Alexander Macleay had not in fact been forcibly removed from office. Nevertheless,

> Lord Glenelg must add, that he cannot subscribe to the opinion, that such an office is to be considered to be held upon such a tenure as would prevent even the removal of the Party holding it,

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[63] Glenelg to Bourke, 11 Aug. 1836, *HRA*, I, 18, p. 480.

[64] W. S. Macleay to Glenelg, 1 Sept. 1836, CO 201/258, ff.176-7.

> however unexceptionable his conduct may have been, when the interests of the Public Service require such a change.[65]

The letter which incorporated this statement was prepared towards the close of 1836. Some three years later Stephen drafted Lord John Russell's despatch of 16 October 1839 to Governor-General Charles Poulett Thomson regarding the tenure of civil offices in the British North American colonies.[66] As J. R. M. Butler has written, this despatch 'marks a stage of immense importance in the transition to Responsible Government'.[67] It provided that, in future, colonial officials might be called upon to retire 'as often as any sufficient motives of public policy may suggest the expediency of that measure'; moreover a change in governor would henceforth be considered sufficient reason for alteration to the list of public functionaries.[68]

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[65] W. S. Macleay to Stephen, 20 Dec. 1836, ibid., ff.228-31. Stephen to W. S. Macleay (draft), 30 Dec. 1836, ibid., f.233. For a later and even more direct expression of this argument, see Stephen's first minute on Gipps to Glenelg, 11 Apr. 1838, CO 201/272, f.198.

[66] The despatch is printed in *PP*, vol. XXXI, 1840 (211), pp. 15-16. On Stephen's authorship see J. R. M. Butler, 'Note on the Origin of Lord John Russell's Despatch of Oct. 16, 1839, on the Tenure of Crown Offices in the Colonies', *Cambridge Historical Journal*, vol. II, no. 3, 1928, pp. 250-1.

[67] Ibid., p. 248.

[68] The significance for the Canadian provinces of this despatch has been frequently discussed. See, for example, Chester Martin, *Foundations of Canadian Nationhood*, Toronto 1955, pp. 153-4; and Rosa W. Langstone, *Responsible Government in Canada*, London 1931, Ch. IV, passim.

It is important to see this new policy as the result of evolving Colonial Office attitudes. The circumstances of Thomson's appointment to Macleay's position represent a significant stage in the evolution. During 1836 the Office was groping towards a clear policy. By the end of the year Glenelg and Stephen were expressing, with regard to Macleay's position, the unequivocal view that colonial secretaries and like officers retained their positions during pleasure rather than during good behaviour. Thus the despatch to Poulett Thomson of October 1839 did not represent a sudden reversal in policy. In fact its most vital feature had been implemented in the context of New South Wales politics almost three years earlier.[69]

The decision of the Colonial Office to appoint Thomson to Macleay's position assumes further significance when developments

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69 Historians have reinterpreted over several decades the more immediate origins of this policy. It is now widely accepted that complaints early in 1839 by Governor Gawler against a South Australian civil officer persuaded the Colonial Office to implement the Gosford Commission's recommendation of two years earlier. In the context of Russell's developing policy towards the government of British North America, the provision for a specific contingency in South Australia achieved far greater significance as a means of devolving new power and initiative on the Canadian governor-general. See, in particular, Butler, 'Note on the Origin of Lord John Russell's Despatch...', pp. 248-51; Paul Knaplund, 'Sir James Stephen and British North American Problems, 1840-1847', *Canadian Historical Review*, vol. V, no. 1, March 1924, pp. 26-7; Oscar A. Kinchen, 'The Stephen-Russell Reform in Official Tenure', ibid., vol. XXVI, no. 4, Dec. 1945, pp. 382-91; Kinchen, *Lord Russell's Canadian Policy: A Study in British Heritage and Colonial Freedom*, Lubbock (Tex.) 1945, Ch. VII, passim; and Knaplund, *James Stephen and the British Colonial System*, pp. 61-3.

within the Office itself are considered. At the end of 1835 and the beginning of 1836, when Dick Bourke was pressing Glenelg to take action with regard to the colonial secretaryship of New South Wales, Stephen, then Assistant Under-Secretary, was waging a determined battle to secure the removal of the Permanent Under-Secretary, Hay, and his own appointment to Hay's place.[70] Stephen's complaints against Hay were of long standing, and they resembled Bourke's complaints against Macleay: Hay, according to Stephen, was inept as an administrator, while his Tory outlook was an obstacle to reform both within the Office and in the colonies.[71] While Macleay was already enjoying a pension granted by a Tory government in a manner which Stephen considered to be most improper, Hay had been promised by Sir Robert Peel a pension which enabled him to retire whenever he should choose to do so. Stephen regarded this promise,

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[70] This discussion of Hay's replacement by Stephen is based principally upon the James Stephen Papers, Cambridge University Library, and the Papers of the 3rd Earl Grey, University of Durham. The events are outlined in Thomas James Barron, James Stephen, the Development of the Colonial Office and the Administration of Three Crown Colonies: Trinidad, Sierra Leone and Ceylon, Ph.D. thesis, University of London, 1969, pp. 85-95.

[71] See ibid., p. 75; Buckner, op. cit., pp. 115-16; J. J. Eddy, *Britain and the Australian Colonies 1818-1831: The Technique of Government*, Oxford 1969, pp. 32-5. Stephen to Glenelg, n.d., Stephen Papers, Box 2 (xi), Cambridge University Library [a shorthand version of this letter at Box 2(vii) is dated 9 May 1835]. The case of Gellibrand, mentioned above (p.127), affords a typical example of Hay and Stephen disagreeing on a question of policy.

which removed one means by which a Secretary of state could force Hay's retirement, as illegal.[72]

Although Glenelg placed no confidence in Hay and was heavily dependent upon Stephen, he was loath to effect Hay's removal. Glenelg adhered to the traditional view that offices were held as an 'inalienable right'.[73] When eventually he submitted to pressure and compelled Hay to relinquish office, he was forced to recognise that this view was no longer valid. 'I may be quite mistaken', he told Stephen, 'but it really seems to me that the removal of - [Hay] ensures beyond doubt your removal on a change [of government]'.[74]

Glenelg's letter to Hay insisting on his retirement was sent on 27 or 28 January 1836.[75] Three weeks later the Secretary of

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[72] Stephen to Howick, 7 Jan. 1836, Grey Papers, University of Durham. Barron, op. cit., p. 87.

[73] Ibid., p. 89. An indication of Glenelg's view is given by his promise of May 1835 that Stephen should succeed Hay on the latter's retirement; Glenelg believed that his 'compact' would be binding upon those who would succeed him as Secretary of State: Glenelg to Stephen, - May 1835, Stephen Papers, Box 2 (viii), Cambridge University Library.

[74] Glenelg to Stephen, n.d. [late Jan. or early Feb. 1836], ibid. It should be noted that Hay's removal also caused the Prime Minister, Lord Melbourne, to alter his views on the subject of tenure: see Melbourne to Howick, 25 Dec. 1835, Grey Papers, University of Durham; and the preceding undated letter from Glenelg to Stephen.

[75] Howick's entries for 27 and 28 Jan. 1836, in 3rd Earl Grey's Journal, Grey Papers, University of Durham.

State told Dick Bourke that Thomson would be nominated to succeed Macleay.[76] Two problems of tenure, in many ways analogous, were thus under the consideration of the Colonial Office at the same time. Although there is no apparent evidence to suggest that the consideration of one case directly influenced the outcome of the other, there can be little doubt that Stephen, at least, recognised that similar principles and policies were involved in both cases. It is also clear that developments in New South Wales were affected by Stephen's growing stature within the Colonial Office.

From the preceding analysis of the colonial secretary's position, it should be clear that there is no simple answer to the question of whether Macleay, in terms of contemporary practice, should have been removed. The circumstances of the removal provide evidence for the argument that British imperial policies evolved in response to specific pressures and not in conformity with any preconceived plan.

The changing ideas of the Colonial Office had clear implications for Thomson when he assumed his new office as Colonial Secretary. We shall see, in following chapters, that he recognised the delicacy of his relationship with governors and that he interpreted his role as Colonial Secretary accordingly.

A second question, anticipated earlier, relating to Thomson's appointment asks if, once Macleay's removal had been decided, a

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[76] R. Bourke jnr to Bourke, 18 Feb. 1836, BP, vol. 12, p. 119.

successor should have been appointed who was so closely related to the Governor. Bourke, who was scrupulous on any question regarding patronage,[77] had no doubt that his son-in-law was the most suitable man for the job and that he should therefore be appointed. However, when he told Dick Bourke to support Thomson's candidature he anticipated that objections might be raised to the nomination of a person so closely related to himself.[78] As we have seen, these fears were well-founded.

In view of contemporary attitudes to patronage, the reluctance of the Colonial Office to appoint Thomson warrants some explanation. Dr King points out that the appointment of relatives had been regarded in the past as one of the perquisites of colonial administration: "That a relationship should be an impediment to such an appointment was a comparatively new idea in the Colonial Office, and was regarded as a 'crotchet' of Stephen's".[79] This discussion needs to be taken further. The reluctance of the Colonial Office to appoint Thomson has a larger significance, which emerges more clearly in the context of contemporary attitudes to patronage.

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[77] See, for example, Bourke's memorandum [for Col. Sec.], 8 Apr. [1834], relating to the advertising of allotments to be granted to Thomson: 'The Col. Secy. is requested to state the official practice. I certainly will not depart from any established form in a case where any Member of my family is concerned'; CSIL Letters from Individuals re Land 1826-56, 2/7988.

[78] Bourke to R. Bourke jnr, 6 June 1835, BP, vol. 6, p. 67.

[79] *Richard Bourke*, p. 235.

As Henry Parris has pointed out in his study of *Constitutional Bureaucracy*, the decline of the old system of patronage - or appointment by personal recommendation - was long and slow.[80] It was not until the latter half of the nineteenth century that it ceased to be the normal mode of recruitment to the public service. In the 1830s the system was firmly entrenched: it was generally accepted - though not unquestioned - that men in high places would use their power and influence to secure positions for their kinsmen and friends. Darling, for example, provoked considerable criticism by appointing his brothers-in-law, the Dumaresqs, to various public offices.[81] In Van Diemen's Land, John Montagu and Matthew Forster profited from the patronage of their relation by marriage, Lieutenant-Governor Arthur; despite the competence of these officers, Arthur's nepotism became a frequent subject of complaint in the colony.[82]

Although Glenelg was himself adept at providing for his relatives with colonial appointments,[83] he recognised that the

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80 Henry Parris, *Constitutional Bureaucracy*, London 1969, p. 50.

81 See Currey, op. cit., pp. 172-3. Macquarie showed a similar *penchant* for supporting his kinsmen: see entry by N. D. McLachlan, *ADB*, vol. 2, p. 192.

82 See the *ADB* entries by John Reynolds and A. G. L. Shaw, respectively: vol. 2, pp. 248-50, and vol. 1, pp. 404-5.

83 See, for example, Glenelg to Bourke, 10 May 1837, BP, uncatalogued MSS, set 403, item 7. Sir John Macdonald to Bourke, 9 May 1837, ibid. Anne Deas Thomson to R. Bourke jnr, 5-8 Sept. [1837], BP, vol. 11, p. 641; although it is suggested in pencil on this letter that it was written in 1838, there is ample internal evidence to suggest that 1837 is the correct year.

system of patronage was apt to cause inconvenience. Only recently he had written apologetically to Stephen about his own participation in an extremely improper 'job'.[84] Therefore, when approached by Dick Bourke on the subject of Thomson's nomination, he was probably wary. However, the initial refusal to appoint Thomson originated not with the Secretary of State, but with James Stephen. Like Glenelg, Stephen had managed to secure appointments for many of his relatives throughout the colonies.[85] But when confronted with the proposal that Thomson should succeed Macleay, he was prepared to debate the matter at length on the basis of firm principle. Although this principle was not stated explicitly in letters from Dick Bourke to his father, it is clear that Stephen had decided that relatives of governors would no longer be permitted to hold high office in colonies where their kinsmen ruled.[86] Dick Bourke argued that never before in

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[84] Glenelg to Stephen (confidential), 15 Aug. 1835, Stephen Papers, Box 2 (viii), Cambridge University Library. The 'job' in question concerned the appointment of a Mr Thomas as Receiver of the Returns of the Stipendiary Justices at Mauritius, at an augmented salary of £1,000 per annum. This position was created specifically for Thomas through the influence of Sir George Grey, Parliamentary Under-Secretary at the Colonial Office. Glenelg initially demurred, then yielded to Grey's wishes, but afterwards realised the extreme impropriety of the proceedings.

[85] See, inter al., Eddy, op. cit., pp. 22-3. An entry in Stephen's diary for 1846, when considered alongside evidence of his hostility to patronage, indicates that his views on the subject were somewhat ambivalent. 'Sir Francis Palgrave writes to ask me to obtain a place for his son in the C[olonial] Office. I could as soon obtain a seat for him at Arthur's round Table. Oh my boys when your place seeking days come who will help you [?] Some kind friend I trust - Let us to the best of our utter ability be the Palgraves['] friend then'. Entry for 6 Jan., Diary of James Stephen, 1 Jan. to 6 Sept. 1846, MS no. ADD.7511, Cambridge University Library.

[86] See especially D. M. Perceval to Bourke, 26 Feb. 1836, BP, uncatalogued MSS, set 403, item 6.

parallel cases had close connection been advanced to prevent an appointment: this was a most improper occasion for introducing such a principle. Stephen retorted that 'the very fact of this appointment being unobjectionable in every particular was the very reason why it should be made the first in the assertion of a principle'. Bourke concluded that Stephen was 'a little *crotchety* and theoretical, though a more honourable and high-minded man did not exist.[87]

With regard to this principle, however, Stephen's high-mindedness was founded on very pragmatic considerations. In other colonies, he told Dick Bourke, the practice of appointing near connections to positions of influence had given rise to much objection and loud complaint.[88] Although he did not specifically mention New South Wales in this context, the opposition created by Darling's alleged nepotism was doubtless also at the back of his mind. Such opposition would have weighed heavily with the Under-Secretary, for he was always anxious to maintain colonial harmony and to avoid parliamentary disapproval of Colonial Office actions. But Stephen surely had been aware of these disadvantages long before 1836: why did he choose this occasion to put into practice his new principle? Perhaps he had long recognised the expediency of the principle, but up until now

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[87] R. Bourke jnr to Bourke, 19 Jan. 1836, BP, vol. 12, pp. 113-16.

[88] Ibid., pp. 114-15.

had been unable to apply it owing to Hay's influence in the Office.[89] Another possible explanation is that Stephen anticipated a hostile response to Macleay's forced retirement and did not wish to exacerbate the situation by appointing the Governor's son-in-law to the vacant post. If this were so, he was right in supposing that objections would be raised in the colony to the appointment of so near a connection. The *Sydney Gazette*, which was now frequently critical of Bourke's government, warned that the colonial secretary's office would become a 'listening shop' where all anti-government sentiments would be recorded for the Governor's private use; worse still, Thomson would be a member of both councils, thereby granting to the Governor, through his minions, almost 'exclusive power'.[90] One other factor that might have influenced Stephen to oppose Thomson's appointment was the contemporary view that while it was right and proper to secure initial appointment through the influence of powerful connections, further advancement should be attained as a result of merit alone.[91]

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89 Hay's diminishing influence, prior to his removal, is indicated in his letter to Sir John Deas Thomson, 11 Jan. 1836, in which he explains that he had not an opportunity of 'canvassing with the Secretary of State on Australian matters', 'owing in part to my absence from town'; CO 324/87, f.254.

90 *Sydney Gazette*, 7 Jan. 1837.

91 See G. Kitson Clark, "'Statesmen in Disguise': Reflexions on the History of the Neutrality of the Civil Service", *Historical Journal*, vol. 11, no. 1, 1959, p. 21. Although Thomson was moving to another branch of the public service, his appointment as Colonial Secretary was commonly regarded at the time as a promotion.

Henry Parris argues soundly that the exact moment of the death of patronage is unimportant. The replacement of old practices by open competition was gradual, the rise of one system overlapping the decline of the other.[92] Nevertheless, while one can speak of the gradual evolution of a system, the fact remains that specific practices emerged at a precise time and had their origins in specific events or circumstances. Such times and origins are normally very difficult to discover. However, it is clear that the proposal to appoint Thomson to the colonial secretaryship of New South Wales gave rise to the enunciation of an important principle regarding the appointment of civil officers to the colonies. To determine how faithfully the Colonial Office acted on this principle in later years would require an extensive investigation of colonial appointments after 1836, although James Stephen's reputation for adhering to principle suggests that he would have maintained it wherever it was possible to do so.[93] On a broader perspective, the emergence of Stephen's principle must have constituted one step, perhaps minute but nonetheless significant, in the gradual decline of the old system of patronage.[94]

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[92] Parris, op. cit., p. 50.

[93] One notable instance of the principle being implemented occurred at the Cape in 1842. The governor, Sir George Napier, asked that John Moore Craig be appointed permanently to the position of secretary to the colony. As Craig was a close connection of Napier by marriage, the Secretary of State declined to approve the appointment. Breitenbach, loc. cit., p. 183.

[94] For a recently published discussion of Stephen's reforms within the Colonial Office, see R. C. Snelling and T. J. Barron, 'The Colonial Office and its permanent officials 1800-1914', in Gillian Sutherland (ed.), *Studies in the growth of nineteenth-century government*, London 1972, pp. 143-52.

When it was finally decided (for reasons that will shortly be seen) to appoint Thomson, Stephen was distressed that the principle had, as he put it, been violated.[95] A contrary view was presented in a letter to Bourke by another son-in-law of the Governor, Dudley Perceval, who considered Stephen's principle a 'concession to the envious, dirty, democratic spirit of the age'.[96] In this view, which undoubtedly would have been more widely representative than that of Stephen, there was no question of Thomson's appointment being nepotistic, in a pejorative sense. By the most widely accepted standards of the age, the nature of the appointment was neither uncommon nor improper.

One final question remains: did Bourke use 'proper' means to secure Thomson's appointment? The steps taken by Bourke to forestall any opposition to his son-in-law's nomination were expressed by the Governor when he told Dick of Macleay's supposed retirement. 'If my own friends be in Office', he wrote, and

> our near connexion shd be urged against such an appointment, I wd promise *them* to resign on his nomination - but I would not do so if the opposite Party be in power for my Enemies here wd take occasion to say I was removed.[97]

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[95] Mary Jane Perceval to Bourke, 14 Mar. 1836, BP, uncatalogued MSS, set 403, item 6.

[96] D. M. Perceval to Bourke, 26 Feb. 1836, ibid.

[97] Bourke to R. Bourke jnr, 6 June 1835, BP, vol. 6, p. 67.

Thus, as Hazel King points out, Bourke '*offered* to resign if it would facilitate the appointment; he did not *threaten* to resign unless the appointment was made, as has been suggested'.[98] Certainly, Bourke did not threaten to resign; but equally certainly (and this Dr King omits to mention), his offer was presented to Glenelg and Stephen, and interpreted by them, as a threat in fact if not in name. 'I am persuaded', Dudley Perceval told Bourke, very pointedly, 'that nothing but Dick's judicious management of your proposal to resign' succeeded in overthrowing Stephen's principle.[99] At first, Dick Bourke did not mention his father's offer, desiring, as he put it, 'to fight the battle on the merits of the case'.[1] However, when Stephen declared that the only objection to Thomson's appointment was his connection with the Governor, Dick 'had him at once' with Bourke's offer to resign. Thus, Dick Bourke told his father, Stephen was presented with the alternatives of giving up a favourite crotchet or of losing Bourke's services in New South Wales: by retaining Bourke as Governor he chose the lesser of these two evils.[2]

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98 *Richard Bourke*, p. 235 (emphasis in original).

99 D. M. Perceval to Bourke, 26 Feb. 1836, BP, uncatalogued MSS., set 403, item 6.

1 R. Bourke jnr to JDT, n.d. [Jan. 1836], DTP London.

2 R. Bourke jnr to Bourke, 18 Feb. 1836, BP, vol. 12, p. 119. The preceding interpretation of Dick Bourke's 'management' of his father's offer, and the Colonial Office response to it, rests on the assumption that the office was indeed anxious to retain Bourke's services for New South Wales. Events in 1837 seem to support this. Referring to Glenelg's acceptance, in July of that year, of the Governor's resignation, Hazel King has written that 'it may have been felt in the Colonial Office that, in view of the dissensions in which he had become involved, it was wiser that he should leave New South Wales' (*Richard Bourke*, p. 240). However, there can be no doubt that Stephen held Bourke in very high esteem and wished him to remain in the colony, and that Glenelg much regretted his determination to resign. See Glenelg to Bourke (private), 5 July 1837, BP, uncatalogued MSS, set 403, item 7; also Spring Rice to Bourke, 17 June 1837, ibid.

Stephen could hardly have been too outraged by Dick Bourke's methods for they bore a marked resemblance to his own. Early in January 1836 he was discussing with Howick and Poulett Thomson, then President of the Board of Trade, a proposal which would, in effect, present Glenelg with the alternatives of appointing Stephen to Hay's position or of losing Stephen's services entirely to the Board of Trade. It is probable that this implicit threat was instrumental in forcing Glenelg to dismiss Hay.[3]

How honorable, then were the means employed by Bourke to secure his son-in-law's appointment? Certainly there was an element of blackmail involved, but whether the Governor had intended that his offer to resign should have been used as a thinly-veiled threat must remain a moot point. 'I can trust the matter to your prudence', he had told his son.[4] The final outcome suggests that Dick's interpretation of his father's intentions allowed him to resort to improper means.

While the propriety of Thomson's appointment is in some ways open to doubt, his own conduct during the proceedings appears to have been frank and ingenuous. His private letters to his father

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[3] Entries for 5 and 20 Jan. 1836, 3rd Earl Grey's Journal, Grey Papers, University of Durham. Glenelg to Stephen, 14 Jan. 1836, Stephen Papers, Box 2 (viii), Cambridge University Library. Barron, op. cit., pp. 93-4. Buckner, op. cit., p. 247.

[4] Bourke to R. Bourke jnr, 6 June 1835, BP, vol. 6, p. 67.

show that he sought the position of colonial secretary under the genuine impression that Macleay intended to resign in the near future or that he had already done so.[5] Although this impression was shared by Chief Justice Forbes and Colonel Snodgrass, as well as the Governor, Macleay later contended that his declaration in council had been misinterpreted.[6] While it may be charged that Bourke acted precipitately in announcing Macleay's proposed resignation to the Secretary of State, Thomson was probably well justified in bringing his own name forward. He anticipated that others, who aspired to Macleay's position, would interpret the declaration as he did and seek the appointment.[7] In fact the Colonial Treasurer, Riddell, heard of the announcement from Colonel Snodgrass and nominated for the office.[8]

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5 EDT to JDT, 1 Aug. 1835, 4 Dec. 1836 and 1 Jan. 1837, DTP London.

6 Forbes to Bourke, 28 Oct. 1836, BP, vol. 11, pp. 559-60. Snodgrass to Bourke, 6 Sept. 1836, ibid., p. 538. Memorandum by Macleay, dated 3 Sept. 1836, in [Macleay] *Correspondence with His Excellency Sir Richard Bourke, K.C.B. and Other Documents Relative to the Removal of Alexander M'Leay, Esq. from the Office of Colonial Secretary of New South Wales*, Sydney 1838, p. 4. It should be noted that Forbes was a close confidant of Bourke and that Snodgrass was a warm friend of Thomson. See above, p. 60, and Snodgrass to EDT, 18 Aug. 1852, DTP, vol. 3, pp. 380-2.

7 EDT to JDT, 13 Oct. 1836, DTP London.

8 Report of LC proceedings, 4 Sept. 1838, in *Sydney Gazette*, 6 Sept. 1838. Bourke to Glenelg, 3 Jan. 1837, *HRA*, I, 18, p. 638. Later, when it became widely expected that Thomson would be appointed to the position, T. C. Harington requested the appointment, basing his claim upon his seniority in the public service. Harington to Glenelg, 18 June 1836, and enclosures, CO 201/258, ff. 29-33.

When Thomson explained to George Macleay the reasons for his application, some of his friends were amused at his delicacy on so plain and straightforward a matter. However, he believed that it was 'always most agreeable, especially with old friends, to know the precise footing on which you stand with them'. The Colonial Secretary expressed himself quite satisfied with his explanation and the two men continued on the best of terms.[9]

Macleay's manner changed markedly when it became apparent that he would be forcibly removed from office. As Thomson remarked, it would perhaps have been expecting too much of human nature to have anticipated otherwise. Thomson told his father how much it grieved him to step into a position which an old friend had been compelled to vacate. However, there is no sign that he contemplated refusing the promotion once the circumstances of Macleay's forthcoming removal became clear. Nor is there any indication that he noticed the parallel between Macleay's forced retirement and that of his father some four years earlier, despite his great indignation on that occasion about the impropriety of the transaction.[10] He simply concluded that Bourke was determined to replace Macleay and that if *he* did not fill the vacancy, some other person would. It is nonetheless clear from his numerous letters to his father on the subject that the manner of his

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[9] EDT to R. Bourke jnr, 17 June 1836 [see n.30, p. 117 above], BP, uncatalogued MSS., set 403, item 6.

[10] See above, pp. 76-7.

appointment caused him considerable unease.[11]

Thomson probably was unaware of the way in which Dick Bourke pressed his nomination before the Colonial Office. When the Governor first mentioned that he would resign his own situation rather than permit family connection to interfere with his son-in-law's prospects, Thomson was highly gratified by his kindness. However, he strongly expressed his unwillingness to accept promotion upon such terms.[12]

Despite the opprobrium which surrounded the mode of his appointment, Thomson's own conduct was not criticised in the colonial press. He was relieved, and a little surprised, to find that the colony 'pretty generally' reacted favourably to his elevation.[13] When it first became known that he was to replace Macleay, the *Sydney Gazette* reported this 'gratifying intelligence' with some enthusiasm. Macleay's place, it observed, would at last be filled by a gentleman in every way qualified to do it justice. Later, when the circumstances of Macleay's removal became apparent, the *Gazette* expressed a very different opinion: 'Of Mr Thomson we have but little to say, and if in his new office he gives satisfaction, we shall have still less'.[14] Although the *Colonist*

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[11] EDT to JDT, 13 Oct. and 4 Dec. 1836, DTP London.

[12] EDT to JDT, 1 Aug. 1835, ibid.

[13] EDT to JDT, 1 Jan. 1837, ibid.

[14] *Sydney Gazette*, 25 Aug. 1836 and 5 Jan. 1837.

complained bitterly of the Governor's alleged nepotism, it did not dispute Thomson's qualifications for the situation.[15]

Perhaps the most surprising feature of the press discussions was the ignorance they displayed of Thomson's outlook. Evidently his efforts as Clerk of the Councils to remain above party disputes had been most successful. Although he was now at the centre of a conflict where Whig and Tory interests were directly opposed, the rival newspapers seemed better acquainted with his sporting activities than with his political leanings. For while the *Australian* could congratulate the colonists on procuring as Colonial Secretary a man of liberal principles, the *Colonist* could ensure its readers that '*in principle he is as much a Tory as* Mr. Macleay, although he perhaps possesses a more pliant conscience...'.[16] As we have seen, there was some truth in both views.

The Colonial Office also approved Thomson's conduct in every respect. Some months after the succession had taken place, Sir John Thomson dined at Lord Barham's, where he met Lord Glenelg and had 'a very pleasant and satisfactory conversation with him'. Sir John informed the Secretary of State that his son's treatment of Macleay had been based on the highest principles of gratitude and regard. Glenelg replied that he could never have thought

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[15] *Colonist*, 26 Jan. 1837.

[16] *Australian*, 6 Jan. 1837. *Colonist*, 26 Jan. 1837.

otherwise. Therefore, as Sir John so delicately told his son, 'Mr. McL. and his family may go far enough for aught I care'.[17]

Sir John, at the other side of the world, was in a reasonable position to take this attitude. For his son, however, Macleay's bitterness meant an awkward and embarrassing start to a new career. Macleay, as Bourke commented, 'kept up a doleful cry on the appointment of a successor', and published a pamphlet in which he charged the Governor with nepotism. Two of Macleay's sons, together with his son-in-law, Major Innes, resigned from the magistracy in high dudgeon. He received an address signed by over 500 leading colonists deploring his removal.[18]

In 1838 the legislative council complained that a sum proposed by the Secretary of State was totally inadequate compensation to Macleay for his loss of office and recommended that he receive a substantial gratuity. During the debate on these proposals, it was charged that those gentlemen who had applied for the Colonial Secretaryship would have shown 'a more proper feeling' if they had first consulted Macleay. Thomson replied with some warmth, and the matter was dropped.[19] However,

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17 JDT to EDT, 3 Aug. [1837], DTP, vol. 2, p. 59.

18 Bourke to R. Bourke jnr, 14 Apr. 1837, BP, vol. 6, p. 225. [Macleay] *Correspondence with Bourke*. *Sydney Gazette*, 7 Jan. 1837.

19 *VPLC*, 4 Sept. 1838. Report of LC proceedings, 4 Sept. 1838, in *Sydney Gazette*, 6 Sept. 1838. Also Therry to Bourke, 3 and 4 Sept. 1838, BP, uncatalogued MSS., set 403, item 6.

while he could repel direct attacks on his appointment, it was some time before he and his wife were again wholly comfortable in Sydney society. The Macleay family ignored them socially and cut them in the street.[20] Even some two years after the appointment, Anne was embarrassed at a function aboard a visiting French ship, when the Captain asked if he might escort Mrs Macleay rather than herself. Anne would not permit this breach of etiquette, but she managed to retain her equipoise, for she was anxious not to confirm the Macleays in their suspicion that she and Edward were ill at ease.[21] We shall see in the following chapter that the strained relations between the two families precipitated an incident involving Governor Gipps which caused Thomson considerable distress.

But Macleay's ill-will was not implacable. Some time around the turn of the decade, the two families resumed their warm friendship. Early in 1841 Macleay was seen at a public occasion proposing a toast to 'Mr Thomson and the Civil Officers of the Colony'.[22] From 1843 Thomson and Macleay worked together harmoniously in the new, partially representative legislative council, one as chief government spokesman and the other as Speaker. When Macleay died in 1848, at the age of eighty-one, Thomson was one of the pall-bearers at his funeral.[23] The ties between the

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[20] Anne Deas Thomson to R. Bourke jnr, 8 Jan. 1837, ibid.

[21] Anne Deas Thomson to Bourke, 15 Mar. 1839, BP, vol. 11, pp. 693-7.

[22] Report of proceedings at dinner given in honour of Sir Thomas Mitchell, 13 Feb. 1841, in *SH*, 18 Feb. 1841.

[23] *SMH*, 26 July 1848.

two families were further strengthened in 1857, when William John Macleay, a nephew of Alexander, married Susan Emmeline, the second of Thomson's daughters who survived infancy.[24] How this *rapprochement* occurred, and who took the first initiative, is not clear. However, the fact that it did take place probably says something of Thomson's conciliatory manner, as well as that of Macleay.

The mode of his appointment placed another, more substantial burden on the new Colonial Secretary. If he had shown the least sign of being ill-suited to the office or unable to meet its demands, the evidence of failure would have been seized upon as valuable ammunition by those who had criticised his appointment. During his first week of office, the *Sydney Gazette* issued to him a sharp warning. He would have to give up all idea of steeple chases, horse racing and other field sports.

> In conclusion we may add, that we attach no blame to this gentleman for getting the appointment.... But having obtained it, we shall expect him to do his duty - this is all we require, and this we most undoubtedly have a right to demand.[25]

This warning was hardly necessary, for Thomson had no illusions about the step he was taking. On New Year's Eve of 1836 he wrote to his father: 'The time is now at hand for my assuming

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[24] Entry by Michael Hoare and Martha Rutledge on Sir William John Macleay, in *ADB*, vol. 5, pp. 185-7.

[25] *Sydney Gazette*, 5 Jan. 1837.

office.... I look forward with some degree of anxiety to the labor and responsibility which will fall upon me - but I must do the best I can...'. He reassured himself by remembering that over the past few years he had been consulted by the Governor on almost every subject of importance, and was therefore well acquainted with the most important parts of his duties.[26]

Although his salary was fixed at £1,500, £500 less than that of his predecessor, it represented a substantial increase upon his present income, and was doubtless particularly welcome as it followed soon after the birth of Elizabeth. Moreover, his appointment represented a marked stage in the process of improvement which had hitherto been the principal motivating force of his career. His object now, as he told his father, was to perform the duties of his new office 'with credit to myself as well as to those through whose exertions and Patronage I owe my appointment'.[27]

When Thomson became Colonial Secretary, Bourke's six-year term, the established period of office for a colonial governor, was due to expire in a little less than a year. However, Bourke hoped to remain in the colony long enough to superintend the expected introduction of representative institutions and, as the Colonial Office had frequently expressed approval of his conduct, there was good reason for Thomson to suppose that his administration would

[26] EDT to JDT, 31 Dec. 1836, DTP London.

[27] EDT to JDT, 1 Jan. 1837, ibid.

extend beyond the usual term.[28]

With that comforting thought in mind, Thomson quickly settled into a routine of business. At first he was able to perform his duties by attending the office eight hours each day from Monday to Saturday. His work increased greatly when early in 1837 Bourke visited the Port Phillip district. Thomson felt rather sorry for himself during the weeks of the Governor's absence, but his wife was pleased that he was forced to display activity and energy, as well as judgment: the first two qualities, she observed, would lie a little dormant if they were not imperatively called upon every now and then. Later in the year, however, after the legislative council had commenced its sittings, Anne complained that her husband was too constantly engaged. If she wished to consult him on family matters, she had to seize the five minutes he was at breakfast in order to do so.[29]

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[28] Bourke's expressed wishes regarding the duration of his government were ambiguous: although he was eager to await the introduction of representative institutions, he also told his son Richard of his strong desire to quit 'a most troublesome and unprofitable post'. However, it is clear from the Thomsons' reaction to his resignation that they had considered his departure to be a long time distant. Bourke to R. Bourke jnr, 30 Dec. 1836, BP, vol. 6, pp. 212-13. Bourke to Spring Rice, 28 Jan. 1837, ibid., vol. 9, p. 283.

[29] Anne Deas Thomson to R. Bourke jnr, 8 Jan. 1837, BP, uncatalogued MSS., set 403, item 6. Anne Deas Thomson to JDT, 5 Mar. and 31 July 1837, DTP London.

It did not take Thomson long to gain a firm grasp of his new duties. His experience over eight years as Clerk of the Councils had provided him with a detailed knowledge of the workings of the colony's administration. He was well acquainted with the heads of the several government departments and with many of the lesser officials. Where he was doubtful about the procedure to be adopted on a particular occasion, he was able to draw upon the extensive experience of the Assistant Colonial Secretary, Thomas Cudbert Harington. Although Harington had sought the position of Colonial Secretary for himself, he accepted Thomson's appointment with good grace and worked with him harmoniously.[30]

Thomson's initial performance of his new duties was greatly facilitated by his relationship with the Governor. If he had difficulty with a specific problem or in interpreting his responsibilities he could frankly seek his father-in-law's advice. He benefited by remaining in close contact with a skilled politician, for Bourke, as well as being committed to lofty principles, was adept at putting them into effect.[31]

While Thomson placed a high value on Bourke's opinions, he did not always agree with them. He differed, for example, on an important question relating to the colonial secretary's functions.

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[30] Unsigned and undated minutes between Harington and EDT [1837], in CSIL 4/2365.3, NSWA. Arthur McMartin's entry on Harington, *ADB*, vol. 1, p. 512.

[31] See Bourke's comment on his reasons for appointing Wentworth to the commission of the peace, in Bourke to R. Bourke jnr, 11 Mar. 1835, BP, vol. 6, p. 59.

Bourke argued that the routine business of the colonial secretary's office, including the division of departmental duties and the day to day supervision of the clerks, could be performed by the colonial secretary himself and that the position of assistant colonial secretary was superfluous. Thomson, on the other hand, believed he could fulfil his role effectively only with the aid of an assistant of great talent. He later said that Bourke had formed 'a very erroneous conception' of the colonial secretary's duties.[32]

Yet this difference of opinion did not threaten the warm and friendly relationship which existed between the two men. Thus it must be conceded that Thomson's was an easy apprenticeship. After he had served for six months as Colonial Secretary, Anne was able to observe that although Edward might have found it difficult to wear Macleay's shoes (a rather unkind reference to the old man's dropsy) he fitted very comfortably into his office, which she fancied to be the more worth having of the two.[33]

From Bourke's point of view, Thomson's appointment was a considerable success. While he was proving 'a very acceptable officer to the Colony at large', he relieved the Governor of many routine tasks and thus enabled him to devote his energies to higher matters of government. More frequently now Bourke instructed his Colonial Secretary 'to do the needful'. He also made use of

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[32] Report of LC proceedings, 22 Aug. 1838, in *Australian*, 24 Aug. 1838.

[33] Anne Deas Thomson to JDT, 4 June 1837, DTP London.

Thomson's abilities by requesting him to enquire into and report upon various specific subjects, a procedure which he rarely employed in Macleay's time.[34]

Although the year 1837 ran on smoothly for both Bourke and Thomson, the satisfaction which Thomson derived from his office was suddenly interrupted by the discovery that his father-in-law's term as Governor would be shorter than he had originally anticipated. While Bourke, by displacing Macleay, had removed a major obstacle from his path, other problems with the civil officers remained. Before Thomson had been a month in office, the Governor received instructions from Downing Street to reinstate the Colonial Treasurer, Riddell, as an executive councillor. Bourke believed it impossible that he could retain as a confidential adviser a man who had 'betrayed and insulted' the government. Accordingly, he urged the Colonial Office to accept his own resignation and prepared to leave the colony as soon as he learnt that a successor had been appointed.[35]

For the Thomsons, this news was 'a dreadful blow'. Anne sadly anticipated how she would miss her father and lamented that

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[34] Bourke to R. Bourke jnr, 28 Jan. 1837, BP, vol. 6, p. 218. Bourke to JDT, 30 July 1837, DTP London. Minutes and memoranda for 1837, CSIL MM 4/1012.

[35] Glenelg to Bourke, 11 Aug. 1836, *HRA*, I, 18, pp. 479-83. Bourke to Glenelg, 30 Jan. 1837, ibid., pp. 658-61. Bourke to R. Bourke jnr, 25 May 1837, BP, vol. 6, p. 234. The circumstances of Riddell's suspension and reinstatement are discussed in King, *Richard Bourke*, pp. 237-40. See also pp. 131-2. above.

the many happy days her family had spent at Parramatta would soon be at an end. Edward looked ahead anxiously to the prospect of working with a new governor. In September 1837, as the time of Bourke's expected departure drew closer, he and Anne sat down together to calculate the value of their possessions. Their assessment of the income they might derive from the sale of their flocks and the Woolloomooloo property was encouraging. For although Thomson felt secure in his position it was nonetheless a comfort to know that if the new governor proved disagreeable they would have sufficient funds to return to England.[36]

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[36] Anne Deas Thomson to R. Bourke jnr, 8-29 Jan. 1837, BP, uncatalogued MSS., set 403, item 6; 5 Sept. 1837, BP, vol. 11, pp. 638-40.

THE GOVERNOR'S CONFIDANT

1838 - 1843

While Thomson was wondering anxiously who would be the next governor of New South Wales, Lord Glenelg at the other side of the globe was asking himself that very same question. The Colonial Office had learnt with surprise and regret of Bourke's determination to resign. In the eyes of the Downing Street Whigs, Sir Richard had been a 'master hand' at colonial administration. He had combined a deep interest in the welfare of colonists with a salutary concern for economy; at the same time he had zealously promoted the 'great objects' of Whig government. Accordingly, Glenelg confessed to Bourke that it was indeed a difficult task to find a person to succeed him. In July 1837, however, he discovered in Sir George Gipps one whom he hoped would do justice to the previous administration of New South Wales.[1]

Gipps's appointment, by his own account, owed nothing to the influence of patronage. Indeed, when Glenelg 'with his own lips' offered him the position, the proposal came to him as a complete surprise.[2] However, from the historian's point of view, he would

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[1] Glenelg to Bourke (private), 5 July 1837, BP, uncatalogued MSS., set 403, item 7. See also n.2, p.145 , above.

[2] Report of LC proceedings, 22 Mar. 1839, in *SH*, 27 Mar. 1839.

seem a logical choice by a Whig administration for a situation in the colonies. At the time of his appointment he was in his mid-forties and could look back upon a distinguished career. As an officer of the Royal Engineers during the Napoleonic Wars, he was mentioned in the despatches of the Duke of Wellington and Sir John Murray. For five years during the 1820s he was stationed in the West Indies, where his humane treatment of the negroes and his capacity as an administrator won him warm praise from the Secretary of State. Later he served on two commissions which considered and surveyed the proposed boundaries for constituencies under the first parliamentary reform and municipal corporation acts. After a term as private secretary to Lord Auckland, First Lord of the Admiralty under Lord Melbourne, he was appointed to a commission of three, charged with the task of investigating unrest in Lower Canada. This commission, led by Lord Gosford, met with several demands which Gipps would later encounter in New South Wales: amongst them, the house of assembly's cries for complete control of the Crown revenue and for an executive council responsible to the elective representatives of the people. In Canada Gipps revealed himself as an astute politician. The French-Canadian leader, Louis-Joseph Papineau, described him as 'the soul of the Commission', while a visiting English politician, Edward Ellice, observed that Gosford was entirely under his influence. Gipps appended to the reports several minutes clarifying his own views. In so doing he gave expression to a liberal outlook which had much in common with that of the colonial reformers. This outlook, together with his

obvious talents, won for Gipps a knighthood. At the same time his performance made a firm impression upon the Whig incumbents of the Colonial Office.[3]

When Glenelg discussed with Gipps the affairs of New South Wales, shortly after the appointment was offered to him, the Secretary of State made no secret of his high regard for Bourke's administration. He invited Bourke's son to join Gipps and himself over dinner, where Dick answered Gipps's enquiries about the colony. In the following weeks, young Bourke saw his father's successor frequently to answer his questions and to provide him with first hand information about Sydney.[4] It may be assumed that, in the course of their conversations, Dick made favourable mention of his brother-in-law, the Colonial Secretary, and implied that when the new Governor reached the colony

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[3] Sir George Murray's minute, 15 Jan. 1829, on H. Beard (Lieutenant-Governor of Berbice) to Murray, 26 July 1828, CO 111/106. Gipps to E. G. Stanley, 21 Oct. 1831; Gipps (Carlow) to Sir William Gosset, 28 Nov. 1831: Derby Papers, 127/4, Oxford. Reports of the Commissioners appointed to inquire into the grievances complained of in Lower Canada, ordered to be printed, 20 Feb. 1837, PP 1837 (50) Vol. XXIV. L. J. Papineau to J. A. Roebuck, 23 Nov. 1835 and 13 Mar. 1836, Roebuck Papers, MG 24 A19 Vol. 1, V, Letters from Papineau, 1834-1845, pp. 39-42, 49-56, 62, Public Archives of Canada. Edward Ellice to Howick (private), 24 July 1836, quoted in Buckner, Colonial Office Government in British North America, p. 286. For one cabinet minister's opinion of Gipps's Canadian minutes, see entry for 17 Apr. 1836 in journal of Viscount Howick, Grey Papers, University of Durham, Frederick Watson, Introduction to *HRA*, I, 19, pp. vii-xii. S. C. McCulloch's entry on Gipps, in *ADB*, Vol. 1, p. 446.

[4] R. Bourke jnr to Bourke, 21 July and 28 Sept. 1837, BP, uncatalogued MSS., set 403, item 7.

he would find Thomson a reliable source of information and support.

Gipps also learnt of Thomson through another channel. Acting on Glenelg's suggestion that he should wait upon Gipps, Sir John Thomson embraced the task with the usual enthusiasm that he applied when working on his son's behalf. Writing in early August, he told Edward of the connections he would use to gain access to the Governor-elect. As Gipps would not be departing for the colony for some time, he anticipated 'Numerous opportunities of cultivating his acquaintance and friendship'. Nor did he neglect Lady Gipps: 'It will be hard if with my numerous acquaintances I cannot get at some of her connections'. In short, he assured his son, 'You may depend on every exertion of your old dad on this occasion'.[5]

In October 1837 Gipps left England for New South Wales. The following December Bourke bade farewell to his daughter and son-in-law, and the enthusiastic supporters of his regime, and sailed for England. For an eleven week interregnum the colony was left in the hands of Thomson's friend, Colonel Snodgrass. This was a difficult time for the Colonial Secretary. As well as carrying the burden of administration (for he was far better acquainted than was Snodgrass with the daily routine of colonial affairs), he had to comfort his wife, who thought she would never again be reconciled to living in New South Wales following her father's departure. The politics of the colony were tranquil. 'All parties', wrote one observer, 'are now waiting on their oars for the arrival of Sir George

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[5] JDT to EDT, 3 Aug. [1837], DTP, vol. 2, pp. 59-60.

Gipps. Time will show which of them will influence him'.[6]

The calm continued after Gipps's arrival in Sydney in February 1838. The new Governor was not deceived by this 'show of moderation', for he was warned (probably by Thomson, amongst others) that he should 'before long see party spirit break out again with renewed fury'. Thomson was soon pleased to learn that he would not favour or be guided by any one faction. Shortly after his arrival in the colony, Gipps received an address of welcome which had been initiated by leading opponents of Bourke's administration: in itself the address was inoffensive, but Anne Thomson objected to the factious way in which it had been prepared. She was relieved to hear Gipps's reply, which referred to Bourke as 'a man eminently endowed with all the qualities requisite for Government'.[7]

It appeared, much to Thomson's satisfaction, that Gipps was determined to follow steadily in his predecessor's wake. He expressed a strong desire to implement the policies which had chiefly distinguished the previous rule, especially those relating to religion. He confessed his disappointment that the system of Irish schools was not yet in operation, as he had been led to expect.

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6 Therry to Bourke, 16 Jan. 1838, Bourke Papers, MS. 8477 (14), National Library of Ireland. Anne Deas Thomson to Bourke, 11 Feb. 1838, BP, uncatalogued MSS., set 403, item 6. G. K. Holden to Bourke, 15 Jan. 1838, ibid.

7 Gipps to Glenelg, 1 May 1838, *HRA*, I, 19, pp. 400-1. EDT to Bourke, 25 July 1838, BP, uncatalogued MSS., set 403, item 6. Anne Deas Thomson to Bourke, 18 Mar. 1838, ibid., item 7. *SH*, 15 Mar. 1838.

In his view, Bourke had laid the foundations of a self-governing colony, where the institutions of civil and religious liberty would be firmly entrenched.[8]

Thomson was pleased by other aspects of Gipps's political outlook. The Governor was wary of excessive executive or legislative interference in the day to day activities of the people. Priding himself on his own impartiality, he was a staunch opponent of legislation which tended to favour any class or section of the community. He was a vigorous supporter of improvements in the area of administration.[9]

Gipps, in turn, looked favourably upon the Colonial Secretary from the time of his first arrival, relying upon him for information and advice. Perhaps he was influenced by Sir John Thomson's determined lobbying, though in view of the cynicism he frequently displayed on the subject of patronage this seems unlikely. More probably he identified Thomson as Bourke's protégé and respected the experience he had gained during a decade in the colony. Within three days of his arrival, the Governor had engaged the Colonial Secretary in a four hour conference. Gipps, according to Anne, was 'most perfectly unreserved in all his communications with Edward

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[8] EDT to Bourke, 25 July 1838, BP, uncatalogued MSS., set 403, item 6. Anne Deas Thomson to Bourke, 18 Mar. 1838, ibid., item 7. Report of proceedings at unveiling of Bourke's statue, 11 Apr. 1842, in *SH*, 12 Apr. 1842.

[9] See Gipps's speech to the LC, *VPLC*, 8 June 1841; Gipps to C. J. La Trobe, [?c.9 May] 1840, La Trobe Correspondence, 650/2, no. 38, La Trobe Library; Report of LC proceedings, 23 Aug. 1839, in *SH*, 30 Aug. 1839.

on public matters'. Thomson observed that he conferred with him 'very candidly' on every matter of business and did not hesitate to show him his confidential despatches from Downing Street. In return, Thomson was equally candid and unreserved whenever his opinion was called for.[10]

This mutual confidence was strengthened by the friendship which developed between the two families. The Governor and his wife were warmly attentive, and Anne was pleased to find that Lady Gipps was quiet and unaffected. It seemed to the Thomsons that the easy, uncomplicated relationship with the Governor they had enjoyed during the preceding administration might continue.[11]

Yet, before Gipps had been a year in the colony, that initial promise was threatened by what Thomson identified as 'a want of stability' in the Governor's character and purpose. Thomson was dismayed to find that Gipps showed an obvious tendency to sacrifice specific interests to the cause of a quiet government, despite the fact that in so doing he might have departed from what he had firmly avowed to be the ruling principles of his administration.[12] This tendency was widely recognised and criticised in the colony. Men who had supported Bourke's regime discovered that Gipps was more inclined to speaking in favour of his predecessor's principles than he was to giving them effect. At the end of 1838, both Roger Therry

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10 Anne Deas Thomson to Bourke, 11-26 Feb. 1838, BP, uncatalogued MSS., set 403, item 6; 18 Mar. 1838, ibid., item 7. EDT to Bourke, 19 Dec. 1838, ibid., item 6.

11 Anne Deas Thomson to Bourke, 18 Mar. 1838, ibid., item 7. EDT to Bourke, 25 July 1838, ibid., item 6.

12 EDT to Bourke (private and confidential), 19 Dec. 1838, BP, uncatalogued MSS., set 403, item 7.

and George Kenyon Holden, previously Bourke's private secretary, remarked that the new government lacked any clearly identifiable policy. Therry observed that Bourke's church and school measures were still in effect, but doubted that they would have existed had they not been introduced by the previous administration.[13] During 1839 and 1840, when settlers in the country were complaining of frequent attacks by bushrangers and Aborigines, the Whig and Tory presses combined in condemning Gipps's failure to maintain peace and order. According to the *Sydney Herald*, his administration at this time was generally known as the 'do nothing' government.[14]

Thomson discovered, to his regret, that Gipps, being of 'a penurious turn of mind',[15] was very frequently reluctant to take action in matters involving increased government expenditure. Such was the case with regard to the provision of quarantine facilities. This was a subject which concerned Thomson deeply. As Clerk of the Councils he had served on boards responsible for distributing newly-arrived immigrants, and in performing this function he had become familiar with shipboard conditions.[16]

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[13] Therry to Bourke, 3 Sept. and 29 Dec. 1838; Holden to Bourke, 22 Dec. 1838, ibid., item 6. See also Gipps to Marquess of Normanby, 9 Dec. 1839, *HRA*, I, 20, p. 428.

[14] *Australian*, 22 Feb. 1840. *SH*, 19 July 1839. *SH Supplement*, 23 Mar. 1840.

[15] EDT to Bourke (private and confidential), 19 Dec. 1838, BP, uncatalogued MSS., set 403, item 6. For a discussion of Gipps's views on economy, see Kelvin Grose, 'Sir George Gipps: Prince of all Skinflints?', *JRAHS*, Vol. 50, Part 6, Dec. 1964, pp. 453-65; also Grose, 'Sir George Gipps's Memorandum on State Aid during the Depression, 1843', *Economic Record*, Vol. 39, No. 87, Sept. 1963, pp. 371-6.

[16] Bourke to Glenelg, 3 Mar. 1836, *HRA*, I, 18, pp. 344-5. EDT to JDT, 6 Mar. 1836, DTP London. EDT and William Macpherson to Col. Sec., 18 Nov. and 18 Dec. 1836, CSIL 4/2313.1.

During 1838 several government emigrant ships arrived with cases of typhus fever, scarlet fever, smallpox and other diseases aboard, causing him almost constant anxiety. While he deeply regretted the loss of life and the suffering brought about by these epidemics, he also feared that they would discourage potential emigrants from coming to New South Wales, at a time when labour was in short supply. Moreover, he recognised that contagious diseases, once admitted to the colony, would perhaps be impossible to eradicate, and that they would create havoc, especially amongst the native population.[17]

Consequently, when in August 1838 John Dobie, a naval surgeon, suggested the appointment of a health officer for the port of Sydney and put himself forward as a candidate for the position, Thomson supported the proposal. Gipps, however, put the recommendation aside, feeling that he required further experience of the existing quarantine system to enable him to reach a decision. Thomson was unwilling to let the matter rest. Two months later, following the premature release of a vessel from quarantine, he again suggested the appointment of a health officer, pointing out the increasing number of immigrant ships arriving in Port Jackson,as well as the rapid growth of Sydney's population. It was incumbent upon the government, he urged, to take every

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[17] EDT to Bourke, 25 July and 1 Dec. 1838, BP, uncatalogued MSS., set 403, item 6. Minute for Gipps in EDT's hand, 8 Oct. 1838, with in-letter 38/8112, CSIL 4/2408.3.

precaution against the introduction of European and tropical diseases. Gipps was still reluctant to approve the appointment. 'What salary', he asked, 'w^d the Colonial Sec^y. propose - Could a Naval Surgeon continue to receive his half pay if holding such an appointment? Would the Health Officer be allowed to practise privately? Would he not soon want an office, & stationery, & Clerks & Messengers &c &c &c?'[18]

Eventually, some two months later, Gipps acceded to Dr Dobie's appointment, but only after the arrival of another ship with numerous cases of scarlet fever aboard had strained the quarantine station far beyond its capacity.[19] Even then he yielded to Thomson's pressure unwillingly. Later, in 1840 and 1841, he opposed the appointment of a similar officer at Port Phillip, again on the grounds of expense. He told his friend Charles La Trobe, Superintendent of the Port Phillip District, how much he feared the Colonial Office reaction to the creation of new offices. With regard to the health officer he could only say 'that we did without one in Sydney up to 1839 - and that I wish we had not one now

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18 Dobie to Col. Sec., 3 Aug. 1838, in-letter 38/8112; Gipps's minutes, 5 Aug. and 11 Oct. [1838]; and minute in EDT's hand, 8 Oct. 1838, ibid. Gipps to Glenelg, 22 Nov. 1838, *HRA*, I, 19, pp. 683-4.

19 Gipps's minute, 7 Dec. [1838], CSIL 4/2408.3. Gipps to Glenelg, 22 Nov. 1838 and 6 Jan. 1839, *HRA*, I, 19, pp. 683-4, 737-8.

- nor quarantine Laws either [sic]'.[20] By this time, however, Dobie's appointment had been approved by the home government and the situation of health officer at Port Jackson was firmly established, owing in large measure to Thomson's perseverance.[21]

Thomson encountered similar frustration when trying to win Gipps's approval for a scheme designed to improve the conduct of female assigned servants. During Bourke's administration, the Committee of the British Society for the Reformation of Female Prisoners had suggested that women convicts who remained in the one place and behaved well for certain periods should receive financial rewards from the government. This proposal was taken up in the colony by a ladies' committee, of which Anne Deas Thomson was a member. With Bourke's approval, regulations which held out definite incentives to female convicts were formulated and publicised.

When, during 1838, applications for the rewards were received at the colonial secretary's office from several deserving parties, Thomson was unable to bring the Governor to any decision on the subject. Gipps considered that the rewards offered were too high, and feared that they would not be sanctioned by the home

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[20] Gipps to La Trobe, 15 Aug. 1840 and 11 Feb. 1841, La Trobe Correspondence, 650/2, no. 51, and 650/3, no. 70, La Trobe Library. See also draft instructions to Dobie, n.d. [Jan. 1839], CSIL 4/2459.

[21] Normanby to Gipps, 1 Aug. 1839, *HRA*, I, 20, p. 273. See also Louise T. Daley's entry on Dobie, *ADB*, Vol. 1, pp. 310-11.

government. He noticed that, although the original proposal had been conveyed to the colony by the Colonial Office, the plan was not specifically recommended by the Secretary of State. He suggested that the rewards might be met by subscriptions raised in the colony. Anne Thomson was certain that this alternative would fail to gain adequate support.

As the number of applications to his office increased, Thomson called Bishop Broughton to his support. William Grant Broughton, an old school-friend of the Governor, had assisted in framing the original regulations. However, he too was unable to make headway with Gipps, who remained opposed to the scheme. When a ship load of newly-arrived female prisoners were mustered in the dock-yard, Gipps attended, but offered no promise of future rewards. Instead, he delivered a very long speech which, according to Thomson, was out of character and poorly presented. He singled out certain women who had conducted themselves improperly on the voyage, and pointed to one in particular as the ring-leader. Repeating incorrect information, he accused her of having been transported previously. The woman then stepped forward to deny the charge, speaking, so Thomson observed, 'with a great deal of firmness and like a well informed person'. Gipps abruptly sent her for three years to the cells. However, he soon discovered from the Chief Justice that he had no power to take this action, and was accordingly compelled to back down.

Ultimately Gipps relented on the subject of the rewards, and told the Colonial Office that he felt obliged to continue the

payments until he was expressly instructed not to do so. Whether he took this decision in response to pressure from Thomson or Broughton, or for some other reason, does not emerge. However, it is clear that on this occasion, as at other times, his reluctance to take action caused the Colonial Secretary considerable irritation and anxiety.[22]

Gipps's address at the dock-yard gave evidence of another trait which seemingly conflicts with what we have so far seen of his personality. While the Governor could be hesitant and cautious in the extreme, he could also be abrupt and impetuous. Thomson noticed several aspects of this failing. He recognised that Gipps's brusque manner often offended strangers. The Governor was not a patient listener. When colonists came before him with minor grievances, he frequently spoke so much himself that the applicant was unable to introduce his suit at all, or was so confused that he presented his case imperfectly. While he was 'very quick and clever' and a rapid man of business, he was by no means accurate: many papers required to be returned to him for decisions upon matters which he had entirely overlooked in his minutes.[23]

Thomson was chiefly unhappy that Gipps was totally lacking in that 'diplomatic reserve' which he himself considered so important

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[22] For the preceding four paragraphs, see Anne Deas Thomson to Bourke, 16 Aug. and 15 Sept. 1838, BP, uncatalogued MSS., set 403, items 7 and 6; and Gipps to Glenelg, 23 Mar. 1839, *HRA*, I, 20, pp. 67-8.

[23] Compare S. C. McCulloch's view that Gipps 'read every paper with scrupulous care': *George Gipps*, Melbourne 1966, p. 29.

in a leader. The Governor was particularly careless in his communications with local politicians, who were always ready to take advantage of an unguarded comment. He prided himself on his openness and candour: but Thomson believed that he carried these qualities to excess. He spoke with 'great fluency and sometimes forcible eloquence': but Thomson felt that he did not know when to speak and when to remain silent.[24]

It is not difficult to find instances, in addition to the incident at the dock-yard, of that absence of reserve to which Thomson was referring. After Gipps had launched an injudicious attack on the character of the community, James Macarthur commented that he was 'sadly wanting in temper and judgment'.[25] According to Roger Therry, the Governor's hasty expressions in the legislative council added neither dignity to his station nor weight to his argument. During the 1838 session Gipps told the council that, with respect to one bill, 'He did not care three farthings whether it passed or not'; and with respect to another, 'The Council were welcome to make ducks & drakes of it if they pleased'. Therry observed that this may have been very sincere and straight-forward, but it was no strong testimony of eloquence of language or of temper and discretion.[26] Early in the following year, the Governor

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[24] EDT to Bourke, 25 July and 19 Dec. 1838, BP, uncatalogued MSS., set 403, item 6.

[25] James Macarthur to Emily Macarthur, 3 June 1840, Macarthur Papers, Second Collection, MS. no. A4341, pp. 101-4, ML. I owe my references to this collection to Mr. H. P. Barker.

[26] Therry to Bourke, 29 Dec. 1838, ibid. See also Therry's later comments in his *Reminiscences*, p 309: 'His frankness almost amounted to an incapacity to conceal the thoughts that arose in his mind upon any subject under discussion'.

felt called upon to defend the mode of his appointment to the colony. At the time of his nomination, he told the council, he had no more right to ask a favour of Lord Glenelg than to request one from the Emperor of China. His few relations or connections who were in any way prominent in politics were 'one and all of them, rank Tories'. 'I am sorry, gentlemen', he went on, 'to speak disrespectfully of my relations, but such is the fact'. It is hardly surprising that this observation was poorly received by the *Sydney Herald*.[27]

So long as Thomson was not the object of the Governor's indiscreet remarks and did not suffer directly from the reaction they provoked, he could sit back and hope that his superior would learn from the embarrassing consequences of his impetuosity.[28] However, towards the close of 1838, an incident occurred which upset his equanimity. The trouble was associated with his lingering difficulties with the Macleay family. On the occasion of the nomination of new justices of the peace, some virulent remarks appeared in the *Sydney Gazette* attributing to Thomson's influence the omission of Macleay's two sons from the commission. When these observations were brought to Gipps's attention, he informed the Colonial Secretary that he intended to speak to Harington on the subject. Thomson responded that he 'thought it right to inform him' that the Macleays had resigned their commissions at the time

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[27] Report of LC proceedings, 22 Mar. 1839, in *SH*, 27 Mar. 1839. *SH*, 27 Mar. and 15 Apr. 1839.

[28] See EDT to Bourke, 25 July 1838, BP, uncatalogued MSS., set 403, item 6.

of his assuming office as Colonial Secretary and with the avowed object of more freely opposing the government. Gipps, in Thomson's words, 'very abruptly and rudely replied that he would certainly appoint them if they applied to be reinstated': at which Thomson 'merely observed that he would of course do as he thought proper'.

Thomson was distressed that Gipps's behaviour on this occasion had shown a total disregard for his feelings. While he would not have objected to the nomination of the Macleays to the commission, he thought that Gipps 'would better have consulted common decency and propriety' had he conferred with him beforehand. The Governor might have pointed out that the measure was one of expediency, calculated to conciliate parties who might otherwise have proven formidable opponents of the government. 'As it is,' Thomson remarked, 'he has lost much of my good will.'

Thus, before Gipps had been a year in the colony, Thomson had become uneasy about his relationship with the Governor. Sir George Gipps, he observed, was 'undoubtedly a man of very considerable talent'. However, lacking 'firmness and decision', he attempted to compensate by abruptness and rapidity.

Thomson expressed these views and described the incident which had provoked them in a private and confidential letter to his father-in-law. The preamble to this letter must have caused Bourke no little anxiety: 'I have always felt the delicate position in which a Colonial Secretary is placed between his duty to the Government he serves, and the paramount one which he owes to his conscience.' He therefore recognised that his situation

was insecure. However, he assured Bourke that no petulance or loss of temper on his part would be responsible for any breach. The Governor, he wrote, 'is entitled to my cordial co-operation so long as I can give it honestly, and he shall therefore have it unreservedly'.[29]

In a sense, this letter required no reply. Thomson was aware that the problem of responsibility which he confronted admitted of no simple solution. Moreover, if a rupture were to occur it might well do so before Bourke's reply reached him. It therefore seems that his purpose in writing was chiefly to prepare his father-in-law for his possible loss of office, and to assure him that, if such an eventuality occurred, he would not be to blame.

In his reply, Bourke analysed in detail the relationship between governor and colonial secretary. It is unlikely that his advice differed from or added substantially to the conclusions Thomson had already reached, based on his knowledge of the experiences of Goulburn and Macleay, and his own relations with Bourke and Gipps. However, as Bourke stated with clarity the principles on which Thomson, throughout his tenure as Colonial Secretary, regulated his conduct towards each of his superiors, the views contained in his reply should be outlined.

Bourke argued that in the legislative council the colonial secretary was obliged to support the governor on all questions, except those which had previously been declared open. As an

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[29] EDT to Bourke, 19 Dec. 1838, ibid.

executive councillor, however, he could differ from the governor without displaying any want of confidence. In office matters, the colonial secretary should give his advice whenever it was called for, or offer it whenever he should consider it necessary to do so. But irrespective of his own opinions, he was bound to give effect to his superior's instructions by every means in his power. Here, Bourke implied, was the rub. A governor and colonial secretary could not go on very comfortably together unless they were in broad agreement with regard to general principles.[30]

Bourke went on to express his firm wish that Thomson would be able, consistently with his high sense of honour, to remain in office. If he were forced to resign he would be thrown on his own resources, for there would be little chance of his obtaining employment in England. Bourke added that, while his son-in-law might well succeed as a farmer in the colony, the possession of office for a few more years would be 'a great advantage'.[31]

By the time this letter reached him, Thomson's readiness to return to England had been lessened by the news of his father's death. Although Sir John had reached the age of seventy-five, Edward felt the loss very keenly, for his father had been constantly devoted to his welfare. Sir John was able to leave his sons little property, and Edward passed on his share to his father's creditors.

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[30] See above, pp. 125-6.

[31] Bourke to EDT (draft), 8 June 1839, BP, uncatalogued MSS., set 403, item 6.

This made it all the more necessary for him to retain his situation.[32]

The strains which threatened the relationship between Gipps and Thomson during 1838 were not apparent in the following year. Their association in business matters remained open and friendly, while their personal relations steadily improved. In January Edward and Anne, together with Elizabeth, now aged two years, and a second daughter, Susan, born the previous July, were invited to Government House, Parramatta, where they received a very hospitable reception from Sir George and Lady Gipps. Young Elizabeth was a favourite with everyone, and became 'great friends' with the Gipps's only child, Reginald, who was aged seven. Both Sir George and Lady Gipps had very much wanted a daughter of their own, and perhaps were a little envious of the Thomson household.[33]

These close business and personal relations between Gipps and Thomson continued throughout the Governor's administration and were, in fact, consolidated. It is likely that, at the time of Gipps's departure for England in July 1846, only two other people were so well acquainted with the Governor's private thoughts and motives in administering the colony. One of these was Henry Watson Parker, the Governor's protégé and private secretary, who later became a premier of New South Wales under responsible government.[34] The

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[32] Copy of entry in Burial Register, East Farleigh Parish, DTP London. EDT to Bourke, 25 July 1838, BP, uncatalogued MSS., set 403, item 6. J. A. Simpson to EDT, 30 Dec. 1840, DTP, vol. 2, p. 109.

[33] EDT to Bourke, 14 and 16 Jan. 1839; Anne Deas Thomson to Bourke, 3 Feb. 1839, BP, uncatalogued MSS., set 403, item 6. Gipps to La Trobe, 30 Apr. 1842, La Trobe Correspondence, 650/3, no. 132, La Trobe Library. Copy of Baptism Register for Reginald Ramsay Gipps, Macarthur Papers, Vol. 63, MS. no. A2959, ML.

[34] See Bede Nairn's entry on Parker in *ADB*, Vol. 5, pp. 397-8.

other was Charles La Trobe, who maintained with Gipps from his residence at Melbourne a warm and confidential correspondence.[35] A few others - including Broughton, Plunkett and Therry - were very good friends of the Governor, but it is doubtful that they experienced the same constant intimacy in official matters enjoyed by Thomson, Parker and La Trobe. Lady Gipps, though close to her husband in every other respect, was prevented by him from taking an interest in matters of business.[36]

In view of the early difficulties between Gipps and Thomson, how do we explain the later stability of their relationship? Part of the answer, as we shall see in the next chapter, lies in Thomson's own tact and diplomacy and his determination to remain on good terms with his superior. However, no explanation will suffice which fails to show how the character and conduct of Gipps himself evolved during his administration of the colony.

One man who noticed this change was Bishop Broughton. The Bishop, like Thomson, had been offended in the early part of the administration by the Governor's rash outbursts; in addition, he had suspected Gipps of harbouring radical tendencies. However, again like Thomson, he resolved from the first to seek harmonious relations, and gradually the two men achieved a warm friendship

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[35] See Jill Eastwood's entry on La Trobe in *ADB*, Vol. 2, pp. 89-93; and S. C. McCulloch, 'Unguarded Comments on the Administration of New South Wales, 1839-46: The Gipps-La Trobe Private Correspondence', *HS*, Vol. 9, No. 33, Nov. 1959, pp. 30-45.

[36] Lady Gipps to EDT, 29 Mar. 1847, DTP, vol. 3, p. 150.

and understanding. Soon after Gipps had sailed for England, the Bishop wrote: 'In moral feeling he improved surprizingly. Fierce opposition on the part of others begot amenity in him'.[37]

There was probably some truth in the Bishop's explanation. However, the change in Gipps's nature was not simply an increasing amenity. As his term in the colony continued, his conduct displayed more obvious signs of stability and purpose. The growing resistance to his measures imbued him with a new sense of determination and thereby imparted consistency to his actions. He was always strongest when fighting a cause. Moreover, it is apparent from the caution and reserve with which, in later years, he approached local politicians that he was learning from past mistakes.[38]

Perhaps the essence of Gipps's transformation lay in his changing idea of his role and responsibilities as Governor. Throughout the eight years of his government, the burden of office weighed upon him heavily. While other early governors of New South

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[37] John Barrett, 'The Gipps-Broughton Alliance, 1844: A Denial Based on the Letters of Broughton to Edward Coleridge', *HS*, Vol. 11, No. 41, Nov. 1963, pp. 54-60. Broughton to Edward Coleridge, 4 Sept. 1846, quoted ibid. Compare Broughton's view, and the argument presented in this chapter, with the conclusions of Ruth Knight, in *Illiberal Liberal: Robert Lowe in New South Wales, 1842-1850*, Melbourne 1966, esp. p. 31. Mrs Knight suggests that as Gipps's government progressed 'his natural severity of manner increased'. I have been unable to find evidence to support her suggestion that he became 'increasingly suspicious of subordinates and less willing to delegate even routine tasks'.

[38] These arguments will be supported in the following chapter.

Wales may have been equally conscientious, probably none surpassed him in devotion to duty. This may be partly explained by the way in which he had risen to his present station in life. From relatively humble origins as the son of an Anglican curate, he had won advancement through ability alone. He had distinguished himself, as in the West Indies and in Canada, by applying that extra effort beyond the normal call of duty. As Governor of New South Wales, he sought no special favours for himself and was contemptuous of 'the Thirst for Patronage' in others.[39] He was acutely aware that the tenure of his office would depend solely on his own capacity.

Gipps very much needed to remain in office. He was not a rich man. Thomson noted that he seemed determined to make a large fortune in the colony, and that he had regulated his establishment on the most approved principles of economy.[40] As he was anxious that young Reginald should be educated in England, his expenses were further increased from 1843.

More forcibly than other governors he recognised that, in the eyes of Downing Street, he alone was responsible for the colony's welfare. He therefore avoided entirely the practice of sharing responsibility which had brought to Governor Brisbane such unhappy consequences. Brisbane's successors, Darling and Bourke, had been supported in office by loyal adherents. Darling relied heavily on

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[39] Gipps to La Trobe, 5 June 1841, La Trobe Correspondence, 650/3, no. 83, La Trobe Library.

[40] EDT to Bourke, 19 Dec. 1838 (private and confidential), BP, uncatalogued MSS., set 403, item 6.

his own relations, while Bourke looked for support and assistance to fellow Whigs, including Forbes, Plunkett and Therry. Gipps, however, studiously avoided aligning himself with any party or allowing any individual to exercise too much influence upon his judgment. During the first year of his government, he might well have been wary of a Colonial Secretary who could 'entirely dissent' from his proposals[41] and press with vigour policies which conflicted with his own.

Owing to Gipps's conception of his responsibility as governor, and his determination to succeed in that capacity, the problems which he shared with other colonial governors took on new significance. Perhaps the most perplexing of these was the difficulty of serving two masters. There was no doubt that a governor was responsible *to* the home government. At the same time, however, he was responsible *for* the welfare of the colony, and this obliged him to take cognisance of colonial attitudes. In New South Wales during Gipps's administration, majority press opinion was frequently in direct conflict with the views of the Colonial Office, which was taking a greater interest in the colony's affairs. During the early years of his administration, Gipps alternated between a fervent wish to give effect to the Secretary of State's commands and an enthusiastic desire to obtain local popularity. The *Herald*, in 1840, bluntly commented that 'there appear to be only two ideas regulating all his Excellency's movements: the first is, what his masters in England bid him to do; and the second, what will be most

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[41] See, for example, EDT's memorandum [for Gipps], headed 'Colonial Stores', 28 Nov. [1838], CSIL 4/2408.3.

acceptable to the mass.'[42] Only rarely did he follow a middle course. Here, perhaps, lay the key to that lack of firmness and decision which Thomson had observed. When Gipps had been in Canada the burden of responsibility, though not of labour, was carried by Lord Gosford. In New South Wales, however, Gipps felt that he was on his own.

As he gained further experience in government, Gipps tended to place greater emphasis upon instructions from Downing Street than upon colonial opinion. Midway through 1842, Phillip Parker King, Resident Commissioner of the Australian Agricultural Company, remarked that the Governor was 'very partial to popularity - although I think he does not set so high a value on the opinion of the people as he used to do'.[43] In the same year, Gipps gave evidence to confirm this view when he told La Trobe: 'all of you at Port Phillip are rather too sensitive to what the Newspapers say, and make your Editors of too much importance'.[44]

This changed outlook may be explained in part by the attitude of the Colonial Office, which was sometimes concerned that he paid too much attention to pressure from the colonists. In 1840, the Governor, responding to a demand for labour, issued orders for bounty immigrants amounting to almost £1,000,000. When the colony

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42 *SH*, 29 Oct. 1840.

43 King to J. S. Brownrigg (copy), 7 July 1842, King Papers, Lethbridge Collection, MS. no. A3599, p. 138, ML.

44 Gipps to La Trobe, 3 Dec. 1842, La Trobe Correspondence, 650/3, no. 191, La Trobe Library.

was plunged into commercial depression, he had to confess that he had acted very imprudently.[45] The Secretary of State, Lord John Russell, who ten weeks earlier had commended his 'very sound discretion' on a question relating to land sales, now commented that he had 'done very rashly', and contemplated his recall. 'Sir G. Gipps', Russell observed, 'is a very able and enlighten'd Governor, but he allows himself to be governed by the colony, instead of governing it'.[46]

When in 1841 Gipps received peremptory instructions to reduce expenditure, he correctly surmised from the tone of the despatches that the Office was ready to throw him overboard.[47] He had earlier told La Trobe that he was certainly not indifferent to the prosperity of the Port Phillip District or to the good opinion of its inhabitants: however, he could not 'for the sake of Popularity' make himself a Governor Gawler, whose alleged extravagance in South Australia had been a major factor in bringing about his recall.[48] From 1841 onwards this fear of recall was frequently evident in his private communications.[49]

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45 Gipps to La Trobe, 29 Nov. 1841 (confidential), ibid., no. 121.

46 Russell's minute, 11 May [1841], on Gipps to Russell, 19 Dec. 1840, CO 201/300, f.158. Russell to Melbourne, 26 July [1841], MS. no. Ar45, ML. Russell's minute, 5 July [1841], on Gipps to Russell (confidential), 1 Feb. 1841, CO 201/307, f.8.

47 Russell to Gipps, 10 Feb. 1841, *HRA*, I, 21, p. 228. Gipps to La Trobe, 16 Sept. 1841, La Trobe Correspondence, 650/3, no. 112, La Trobe Library.

48 Gipps to La Trobe, 14 Aug. 1841, La Trobe Correspondence, 650/3, no. 108, La Trobe Library. On George Gawler, see R. Hetherington's entry in *ADB*, Vol. 1, pp. 431-5.

49 See, for example, Gipps to La Trobe, 11 Feb. and 16 Sept. 1841, and 9 Sept. 1845, La Trobe Correspondence, 650/3, nos 70 and 112, and 650/5, no. 371, La Trobe Library.

In September 1841, Russell was replaced as Secretary of State by Lord Stanley, who retained the seals of the Office until December 1845. Stanley had long been acquainted with Gipps and was aware of his considerable talents, for in 1831, as Chief Secretary for Ireland, he had appointed him to conduct the survey into Irish boundaries.[50] The new Secretary of State was more inclined than his predecessor had been to do full justice to Gipps's efforts, and showed a more sympathetic understanding of the problems the Governor faced in administering the colony. Gipps himself recognised how much he needed official support. In 1845 he warned Stanley that, unless he received decisive support from the home government on the subject of Crown lands policy, his position in the colony would probably become untenable. On this occasion, as at other times, Stanley did not disappoint him.[51]

As Gipps became more obedient to the wishes of Downing Street, his popularity decreased further in a colony which was rapidly developing its own interests and aspirations. Certainly he had his supporters, especially amongst those colonists who opposed the squatting interests. However, even his warmest adherents frequently

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[50] Gipps to Stanley, 21 Oct. 1831, Derby Papers, 127/4, Oxford.

[51] Gipps to Stanley, 13 Feb. 1845, *HRA*, I, 24, pp. 249-50. Stanley became Earl of Derby in 1851. His performance as Secretary of State for the Colonies has been viewed traditionally by historians in a poor light: see inter al., Morrell, *British Colonial Policy in the Age of Peel and Russell*, London 1966 (first published 1930), pp. 32-5; Knight, op. cit., p. 111; and unsigned entry, *ADB*, Vol. 2, p. 470. In this chapter his efforts are regarded rather more favourably.

conceded that he had acted unwisely.[52] During the early years of his government, his erratic behaviour confused the colonial public. The *Australasian Chronicle*, a Roman Catholic journal, professed a wish to support him, but found it difficult to do so. It complained of his alternating displays of strength and weakness, his vacillation and arbitrary measures, and his 'monstrous assumptions of power'.[53] The editorial comments of the *Herald*, over a period of less than a year, give an indication of how his popularity waxed and waned. In August 1841 the paper criticised his 'unguarded speaking' in the legislative council, and urged him to be 'more modest in his tone, more cautious in his expressions'. The following December, in praising his interest in the welfare of the community, it referred to him as 'an able, well-meaning, and successful Governor', 'a sound statesman and a generous patriot'. Two days later, after Gipps had addressed the legislature on a matter relating to the law of insolvency, the *Herald* attacked the 'flippant, domineering, dogmatical temper' of his speech, which was 'one of the most offensive displays of bad taste, bad feeling, and self-soothing sophistry, ever witnessed within the walls of a Council Chamber'. In June 1842, following an address of the Governor on a bill to incorporate the town of Sydney, it observed that his whole conduct was marked by 'that frankness, that courteous liberality, and yet

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[52] See, for example, editorials in William Augustine Duncan's *Weekly Register*, 1843-1845.

[53] *Australasian Chronicle*, 11 June 1840. The *Chronicle* at this time was edited by Duncan.

that manly firmness and decision, which have won for His EXCELLENCY so large a share of the public confidence and esteem'.[54]

This ambivalence increasingly gave way to outright hostility. The *Herald*, some months after his departure from the colony, charged that he had governed not as an umpire, but as a partisan of imperial interests against colonial rights.[55] The *Atlas*, founded under the brilliant guiding hand of Robert Lowe, presented a scathing analysis of his character:

> It was a mass of contradictions - clever and plausible, without judgment - intriguing, without conduct - precipitate, without firmness - harsh and griping, without integrity, and blunt, without sincerity. His industry, he showed in attention to the most paltry details, while to information or advice, he had neither time nor patience to listen; his talents, he showed in calumniating the colonists in secret despatches, and ridiculing or misrepresenting them by vulgar witticisms, and coarse similitudes - servile and crouching to his superiors - hard and unrelenting to his inferiors - hospitable, without heartiness - open and unguarded, without candour; it seemed as if nature had made him in order to shew how many useful qualities could be neutralised; how many antagonistic elements could be reconciled, in the composition of a man whose very talents and industry seemed given to him, rather to degrade than to elevate.[56]

This caricature was bitter, yet brilliant, for each of its charges carried an element of truth.

Thus Thomson was obliged to serve a man of extraordinary complexity, who was widely disliked and little understood. While

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[54] *SH*, 19 Aug., 16 Dec. and 18 Dec. 1841, and 2 June 1842.

[55] *SMH*, 1 Jan. 1847.

[56] *Atlas*, 27 June 1846.

he benefited from the Governor's growing stability and consistency, his position was made more difficult by his superior's decreasing popularity. On the surface, it would seem that Gipps's conception of his own role, his inherent distrust of advisers, and his immense energy and activity as an administrator reduced the Colonial Secretary's functions to that of a cipher. In fact, the contrary occurred. Owing to Gipps's unpopularity and personal failings, Thomson assumed a new significance during his administration.

It was widely believed amongst Gipps's contemporaries that the Governor ignored the advice of his officials and even treated them with contempt.[57] Ruth Knight, in her study of Robert Lowe, has maintained this opinion, suggesting that he 'characteristically' acted contrary to the advice of his executive council.[58] This view is misleading. Although the Governor differed from the council on a few notable occasions during the later years of his administration, it was not until midway through 1842 that he found it necessary to record his dissent from a council recommendation. This he did with 'much regret'.[59]

Gipps was certainly prepared to listen to and to accept the advice of his Colonial Secretary. Although the Governor spent

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57 Letter to the Editor from 'Brutus', *Australian*, 19 Dec. 1839. *Australian*, 28 Nov. 1840. Georgiana Lowe to Mrs Sherbrooke, 28 May 1843, quoted in Knight, op. cit., p. 31. See also Therry to Bourke, 3 Jan. 1845, BP, vol. 11, pp. 746-7.

58 Knight, op. cit., p. 79. Also R. S. Neale, *Class and Ideology in the Nineteenth Century*, p.99.

59 Gipps's minute, 20 May 1842, with executive council minute no. 15, 1 June 1842, 4/1521, pp. 49-51, NSWA.

the greater part of his time at Parramatta, the two men were in constant contact. 'My dear Thomson', wrote Gipps from Parramatta at half past five one morning in 1839: 'Your note reached me only this moment.'[60] When local correspondence was received at the colonial secretary's office, it was first perused by Thomson, who then forwarded it to the Governor, with or without suggestions for a reply. On letters bearing Thomson's proposals, Gipps usually wrote simply 'Approved', or 'I concur'. On other correspondence, he wrote detailed minutes, which formed the basis of draft replies. These minutes were read by Thomson, before he instructed a clerk in the office to give them effect. Frequently, Gipps sent his suggestions to Thomson with endorsements such as 'This letter is not to be written unless the Col. Sec^{y}. concur in the above views'. When the two men, together with the staff of the colonial secretary's department, drafted regulations and proclamations, they worked together in close harmony. Each commented on and questioned the other's proposals without evidence of hesitation or reserve.[61]

Thomson often restrained the Governor from taking precipitate or ill-considered action. Sometimes his contribution simply involved correcting the Governor's careless wording. In 1841 Alexander Maconochie, Superintendent of the Norfolk Island penal

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[60] Gipps to EDT, 24 Oct. 1839, CSIL 4/2460.1.

[61] See, for example, draft regulations, and accompanying minutes, relating to the disposal of Crown lands, in CSIL 4/2538 and 4/2580.

settlement, wished to reward convicts who had acted meritoriously during a drowning incident on the island. Gipps minuted that Maconochie himself could do this in most cases by cancelling records of offences. Thomson pointed out that this would not do. Records needed to be carefully preserved as the basis of crime statistics; moreover, it was necessary to retain each convict's complete police history in case he should be recommended for further indulgence. Thomson observed that the Governor's intentions might be attained by allowing good conduct to be 'set off' against recorded punishments. Gipps read the Colonial Secretary's remarks, and amended his earlier minute: 'set off' was, in fact, what he had meant to say.[62]

With regard to some matters, Thomson's long period of service in the colony placed him at an advantage over the Governor. In 1843 the legislative council requested a return of all promises of land grants made by governors since Sir Thomas Brisbane, for which applications had been made, but refused by the government. Gipps believed that no such applications had been made, and asked Thomson if a statement to this effect would suffice in response to the council's address. Thomson replied that a number of promises had in fact been cancelled, under regulations issued by Darling, and a return was prepared along these lines.[63]

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62 Minutes by Gipps and EDT, 29 Apr. [1841], and by Gipps, 30 Apr. [1841], on Maconochie to Col. Sec., 9 Mar. 1841, in-letter no. 41/4002, CSIL 4/2503.1.

63 Minutes by Gipps and EDT, Sept. [1843], with Macleay to Gipps, 20 Sept. 1843, in-letter no. 43/6863, CSIL 4/2603.1.

Gipps was always anxious to simplify administrative procedures and to remove anomalies in government. Sometimes this anxiety led him to propose measures which Thomson felt were not in the best interests of the colony. The Governor found it particularly frustrating that people who had been promised free land grants before the abolition of this practice in 1832 were still coming forward to seek fulfilment of their claims. This involved the government in a great deal of labour in ensuring that the claims were properly founded. In 1842 he suggested to Thomson and Sir Thomas Mitchell, the Surveyor-General, that all persons entitled to such grants should be obliged to lodge applications for deeds by a fixed date, after which their claims would become invalid. Thomson was unhappy about this proposal, feeling that the government was bound in equity to give effect to earlier promises. He pointed out that the issue of deeds had been delayed by the backward state of colonial surveys. He argued that some lands for which deeds had not been issued were already occupied, and that the government would gain nothing from the resumption of such properties. Accordingly, regulations were issued which represented a compromise between the views of Governor and Colonial Secretary: no time limit was set for the lodgment of claims, but the onus and cost of proving the validity of promises was placed squarely on the applicant.[64]

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[64] Gipps's confidential memorandum for the Colonial Secretary and the Surveyor-General, 11 Sept. 1842, and EDT's reply, 1 Nov. 1842, CSIL 4/2580.

Thomson's situation as Colonial Secretary placed him directly between the Governor and the people. When the legislative council was sitting, Gipps divided his time about equally between Sydney and Parramatta; at other periods, he resided at Parramatta and came to Sydney just one day each week.[65] Consequently, Thomson frequently interviewed members of the public on behalf of the Governor. Owing to Gipps's abrupt manner, colonists having business with the government preferred to bring their cases before the Colonial Secretary.[66] Even leading members of the community sometimes thought it better to sound out Thomson before approaching the Governor directly. In 1843 James Macarthur placed on paper various suggestions for the relief of the depressed conditions then prevalent in the colony. He sent these to Thomson, for use in such a way as the Colonial Secretary thought best, and mentioned that he would address the Governor officially, if Thomson saw no objection to it.[67] Similarly, Bishop Broughton wondered if the government might grant convict labour for improving a burial ground in Sydney. He asked Thomson: 'Will you be so good as to mention this to the Governor if you think there is any chance of success?'[68]

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65 Gipps to La Trobe, 17 Oct. 1839, La Trobe Correspondence, 650/2, no. 28, La Trobe Library; and Gipps's memorandum [for Col. Sec.], 27 Dec. 1840, CSIL 4/2498.

66 See William Henty's contrasting accounts of interviews with Thomson and Gipps, in Marnie Bassett, *The Hentys: An Australian Colonial Tapestry*, paperback ed., Melbourne 1962, pp. 497-9.

67 Macarthur to EDT, 4 May 1843, DTP, vol. 3, pp. 118-23.

68 Broughton to EDT, 6 June 1843, CSIL 4/2598.1.

In these ways, Thomson came to play two vital roles during Gipps's administration. Firstly, he was the Governor's adviser and confidant, acting as a brake upon his impetuosity and adding to the stability of his administration. Secondly, he was an intermediary between the Governor and the people. Both of these roles assumed still greater significance as the colony entered a new stage of its history in 1843. That year also represented the beginning of a new stage in Thomson's career.

SERVING TWO MASTERS

1843 - 1846

'The fact is', wrote Alexander Macleay in 1833, 'that a Person in my Position can never long be popular, if he is understood to be in the confidence of the Governor'.[1] Macleay's experience as Colonial Secretary under Darling gave him sound reason for reaching this conclusion. Yet Thomson, who served as Colonial Secretary under four governors and enjoyed the confidence of all of them, managed to retain wide respect and popularity amongst the colonists. This chapter attempts to show how he succeeded in serving two masters, the Governor and the colonists, during the later years of Gipps's administration. His task was complicated by the fact that Gipps also was attempting to serve two masters, the home government and the colonists.

Thomson's achievement between 1843 and 1846 is remarkable for two reasons. Firstly, as we have seen, Gipps was becoming steadily less popular. Secondly, from 1843 Thomson was thrust into the centre of conflict between the Governor and the legislative council. In that year, following the enactment in 1842 of a new constitution for the colony, the Governor ceased to

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[1] Macleay to JDT, 6 Oct. 1833, DTP London.

occupy a seat in the legislature. His place as chief spokesman for the government was now taken by the Colonial Secretary.

Before 1843 the Colonial Secretary's role as a legislative councillor had been very much secondary to that of Gipps. His functions were nonetheless demanding. Outside the council he played a major part in drafting legislation and preparing government business. During the life of the old council he was chairman of thirteen sub-committees and a member of another nine.[2] Inside the chamber he functioned as leader of the house. He introduced legislation, including the annual estimates, and answered questions relating to its content and purpose. However, it was the Governor who dominated the floor of the house during debate. Anne Deas Thomson remarked that Gipps considered speech-making his forte, and was 'very bountiful of his words in consequence'. Edward was well pleased that this was the case, as it saved him trouble.[3] In addition to the Governor there were other official members who displayed considerable zeal as orators. Chief Justice Dowling, Bishop Broughton and, until his departure for England in 1841 on leave of absence, Attorney-General Plunkett were always ready to join in debate, and usually spoke in support of the government. Thomson in 1843 was therefore relatively unpractised in parliamentary discussion and had given his contemporaries little

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2 *VPLC*, 1837 to 1843.

3 Anne Deas Thomson to Bourke, 1 July 1838, BP, uncatalogued MSS., set 403, item 2.

evidence which might have enabled them to assess his abilities. As the nineteenth century historian G. W. Rusden remarked, he was 'known and liked by all, but by no means credited for the coolness and capacity which he was about to display in the House'.[4]

He largely managed to avoid involvement in political squabbles. This, of course, was not always possible. In 1841, for example, he chaired a select committee which looked into requests for government financial aid to the Australian College, founded ten years earlier under the auspices of the Scots Church. The committee reported that the affairs of the institution were in a very unsatisfactory and complicated state and that its functions, as originally conceived, were being very imperfectly carried out. It also observed that one of the College buildings had been used for improper purposes - firstly, as an office for the *Colonist* newspaper, and latterly as a residence for John Dunmore Lang's family. The report accordingly recommended that aid to the institution should be refused.[5]

These conclusions aroused the ire of the fiery Dr Lang, who wrote to the *Herald* abusing the committee and attacking its chairman. Thomson responded by ignoring Lang's vituperation, except where the propriety of the committee's conduct was called into question. Lang's attack continued until the *Herald*'s editor wearied of the correspondence and suggested that 'the parties' might continue their battle in another arena.[6]

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[4] G. W. Rusden, *History of Australia*, Vol. II, London 1883, p. 304.

[5] Report of the Committee on Loans to the Australian College, ordered to be printed 17 Aug. 1841, *VPLC*.

[6] *SH*, 14 and 20 Sept. 1841. Report of LC proceedings, 21 Sept. 1841, in *SH*, 22 Sept. 1841.

Under the old constitution Gipps's relations with the legislature were relatively harmonious. Although he sometimes considered it necessary to withdraw legislation, in response to opposition from inside or outside the council, and on other occasions found his measures rejected or amended, he was able more than once to report to the Secretary of State that a completed session had been easy and satisfactory.[7] There were, of course, many disputes which arose in the council. Each year members protested against the provision in the annual estimates for the payment of police and gaols expenses, which since 1834 had been wholly charged upon the colony. However, the estimates were regularly carried, accompanied by what Gipps could refer to as 'the usual' objections and protests.[8] So long as the Governor retained an official majority, the effectiveness of opposition by unofficial members was necessarily slight. As the *Atlas* later observed, 'little discussion is required in a controversy which may be cut short by the bow string'.[9]

Needless to say, the inadequacies of the old council gave rise to discontent amongst the colonists. In 1839 the *Herald* remarked that it was nothing more than a medium through which the Secretary of State signified his will and pleasure whenever he wished to raise additional funds in the colony. Later, the *Herald* conceded

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[7] Gipps to Russell, 24 Oct. 1840 and 29 Sept. 1841, *HRA*, I, 21, pp. 57, 526.

[8] Gipps to Russell, 24 Oct. 1840, ibid., pp. 56-7.

[9] *Atlas*, 30 Nov. 1844.

that, for a nominated body, the council operated very well. But that, said the paper, was not the point: 120,000 free Britons required a voice in the making of their own laws and in the spending of their own money, 'and now that we have got rid of the incubus of transportation, we can see no reason why a Representative Assembly should not be granted to us'.[10]

Thomson also favoured the introduction of a more liberal constitution.[11] He may have been influenced by the opinions of his father-in-law who, even in retirement, was an enthusiastic advocate of representative institutions for the colony.[12] Thomson would have recognised, in addition to the intrinsic merits of a partially elected legislature, the expediency of yielding to popular opinion where there was no pressing reason for not doing so. When Gipps, in 1838, had opened the doors of the legislature to the public, Thomson remarked that the measure only served to lengthen discussion, for members liked to see their fine speeches in the following day's papers. However, the colonists were pleased with the change, and this to Thomson's mind more than compensated for any other disadvantage.[13]

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[10] *SH*, 8 May 1839 and 4 Jan. 1842.

[11] EDT to Bourke, 1 Dec. 1838, BP, uncatalogued MSS., set 403, item 6.

[12] See King, *Richard Bourke*, pp. 218-25.

[13] EDT to Bourke, 25 July 1838, BP, uncatalogued MSS., set 403, item 6.

Gipps, like Bourke, was dissatisfied with the constitution of the old council. Within a year of his arrival in the colony he expressed agreement with his predecessor that the legislature was quite inadequate to the wants of the colony. In the first place, it failed to assist the Governor in framing legislation. In the second, it did not win popular support for the acts of his government.[14] Indeed, Gipps must sometimes have felt that the council gave more trouble than it was worth. It was difficult to find satisfactory people to serve as non-official nominees.[15] Council business was too frequently interrupted through want of a quorum, especially during the sheep shearing season.

The British government was well aware of the objections to the council on the part of the colonists and of Governors Bourke and Gipps. Since the mid-1830s the Colonial Office had been giving close consideration to a new form of constitution for the colony. It was generally conceded, especially after the decision had been taken to abolish transportation, that the existing legislature was no longer satisfactory. However, it was also assumed that New South Wales, because of its peculiar origins and anomalous composition, was not yet ready for the traditional, bicameral form

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[14] Gipps to Glenelg, 1 Jan. 1839, *HRA*, I, 19, p. 719.

[15] See, for example, the resignation of Edward Charles Close, and Gipps's efforts to replace him: Close to Col. Sec., 8 Sept. 1838, enc. in Gipps to Glenelg, 10 Oct. 1838, ibid., pp. 605-6; Gipps to Glenelg, 5 Mar. and 3 Apr. 1839, ibid., 20, pp. 54-5, 81-2; Russell to Gipps, 24 Oct. 1839, ibid., p. 372.