

## ILLAWARRA.

To His Excellency Sir George Gipps, Knight,  
Captain-General and Governor-in-Chief of  
the Territory of New South Wales, and  
its Dependencies, &c. &c.

MAY IT PLEASE YOUR EXCELLENCY :

It is with much reluctance I again trouble your Excellency on the subject of my complaint against the Police Magistrate of Wollongong, and Dr. J. Osborne, already referred to in my statement of the 31st ultimo. I feel it necessary to do so, in consequence of the letter which the former personage has thought proper to address, on his own behalf and that of the Bench, to the honorable the Colonial Secretary, under date of the 8th instant, a copy of which I had the honor to receive by your Excellency's command, a courtesy for which I am extremely grateful.

In this letter, the Police Magistrate states:—  
“ With respect to Mr. Alley's ill-treatment by the Bench, I have only to observe, he conducted himself so disrespectfully when presenting the requisition, that he was told by one of the Magistrates, if he persisted in talking to the Bench in the manner he was then doing he would commit him. This had the desired effect, and he left the office.

“ I am requested to add, that this attack upon the Magistrates is equally unfounded, and similar to many he has made in the public prints upon them.”

In refutation of the above extract, I had hoped to have been able to lay before your Excellency the written testimony of those who were present on the occasion, but moral duty, or moral courage, is not generally practised in this district, therefore, the fear of offending the Magistrates, by apparently volunteering a statement, although in accordance with truth, as it must reflect upon their conduct, has prevented that free response which I had expected.

I called upon Mr. Gerard, one of the Magistrates; he declined giving me any written testimony, as it would be reflecting upon the conduct of the Bench, of which he is a member, and stated he was quite certain there was not any threat to commit me, and that there would not have been any disturbance, or attempt to insult me, but for the previous ill feeling of the Magistrates towards me.

My statement of the 31st ultimo is literally correct, and being so, I cannot consent to remain under the obloquy which the unfounded aspersions of the Police Magistrate is calculated to attach to me, in the estimation of your Excellency.

I have therefore no hesitation in asserting, most unequivocally, that the Police Magistrate has written in his letter of the 8th November, that which he, and those on whose behalf he wrote, knew to be wholly untrue.

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I was especially careful to avoid all angry collision with the Magistrates, knowing full well that they would seize on, or if possible create, a pretext, as in this instance, to insult and oppress me.

I was warned before going into Court that there would be a row, but I had a duty to perform, and I heeded not the warning voice, having confidence that my own forbearance would defeat the attempt, which I felt assured would be made, to ensnare me within their power or their vengeance. And as I had pre-determined, so I acted: in the same ratio as the Magistrates became furious and ungovernable in speech and temper, I became collected, and left the office of my own accord, as I had previously arranged in the event of any attempt to insult me, and without any threat to commit me.

After my retiring, the Police Magistrate, and Dr. J. Osborne, continued their vituperations, which, however suited to their habits and the calibre of their intellect, were certainly most unsuited to the seat of justice, and equally inapplicable to me.

In order to explain this, I am compelled to risk your Excellency's displeasure, by repeating the uncourtly language applied to me in my absence by those gentlemen. Captain Plunkett called me, as I am informed, vagabond, scoundrel, blackguard, and sundry other equally elegant soubriquets. Although I cannot excuse, yet I cannot but pity the man who could use such terms; but knowing his failings, I attribute these expressions to the rabid exuberations of an uneducated and <sup>tempered</sup> mind.

Dr. J. Osborne, in order to point the finger of scorn or pity on me, exclaimed, I suppose in allusion to my desire to oblige him and others to pay a cess upon land, for the making and repair of roads: "It is very well for Mr. Alley, who goes about from house to house in Wollongong, begging his dinner, and to Mr. Brown's hotel, to fill his belly at Mr. Brown's expense." Now, Dr. Osborne, when he made this most gross and uncharitable speech, knew in his soul that he was stating a falsehood; but even if it were true, the promulgation of it, on such an occasion, was not only irrelevant, but at any time unchristian, and being wilfully untrue, it was unbecoming a gentleman and a Magistrate. The wish was father to the thought, for is it not a fact, I would ask Dr. Osborne, has he not exercised his private influence to reduce me and my unoffending family to that very state which he has so feelingly described?

And yet, notwithstanding this licentious conduct of magistrates, I am informed by your Excellency that "the matter between me and the Bench is one in which the Executive Government cannot interfere." If the Executive Government cannot

interfere." If the Executive Government cannot interfere with, or have no power over the Executives of its own appointment, in a matter touching the competency and character of those Executives, I am at a loss to know what power can? When gentlemen bring to the seat of justice, to the consideration and adjudication of questions, their private feelings, their antipathies, their prejudices, and their passions, and forget that they are gentlemen, and that they are sworn to administer the laws impartially and irrespective of such feelings. If "the Executive Government cannot interfere," the sooner such an untoward state of the law be made public, the better: that the British subject may understand, before leaving the country in which the Executive Government *can* interfere, the evils he may expect to meet with, in this the country of his intended adoption.

I may be told that an application to the Supreme Court will obtain me redress. If so "my poverty, not my will," prevents me seeking it. And is it because I cannot undertake the expense of an action at law, that I am to be refused redress by the only power to which I can apply?

This will form a new, because hitherto unknown, feature in the history of the local as well as general administration of the laws of New South Wales, intimately affecting the peace and happiness of immigrants, which it may be well to inform our relatives and friends of, that *they* may have the advantage of deciding whether they will bring their capital, and risk the trouble, vexation, and danger of a sea voyage of 17,000 miles, to settle in a country where the local magistracy, if so inclined, may ride rough shod over the people, construe Acts of Council to suit their convenience, their pockets or their prejudices, and designedly create a pretext to insult and wound the feelings of any person whom they may dislike; and then be told in reply to a complaint, that "the Executive Government cannot interfere."

This is not the measure of justice that a British subject is accustomed to in his native land and surely, the least he may expect in this distant land is, that he shall receive, as his birthright, a similar measure of justice to that which, under similar circumstances, he would be certain of having freely yielded to him in the land of his birth.

I may be also told that I should have recourse to the law of honour, usual amongst gentlemen. This would be poor redress. The insult was not given me in their private capacity, but as Magistrates, upon a public occasion, under the protection of their own Court, in the discharge of their public business, and was an act of premeditation, for which there was not any just reason: and, although, morally, I object to such a mode of redressing grievances, yet, were I to have adopted it, I verily believe that the "row," as it is properly called, was "got up" for the express purpose of entrapping me into a breach of the law, that they

entrapping me into a breach of the law, that they might exercise their vengeance according to their own taste, and after their own fashion, against which the man whose misfortune it is to have an empty pocket, can have no redress when "the Executive Government cannot interfere."

In reference to the concluding paragraph of the Police Magistrate's letter, before quoted, I affirm the truth of every syllable I have written, both to your Excellency and in the "Public Prints." Indeed, the Police Magistrate has himself borne the strongest testimony to the literal accuracy of my reports, first, when he charged the Clerk of the Bench with having furnished me with copies of evidence in the various cases which I reported; and secondly, his denial of their truth. How then did it happen that after he took possession of the depositions, and kept them under lock and key, that I still continued to enlighten the public upon the peculiarities of Illawarra law, through the same "Public Prints"?

I would not have your Excellency suppose that I am one of that class of reckless and senseless would-be reformers or radicals who seek to overturn all law, and all lawful authority; on the contrary, I am a firm supporter of both, and this it is that makes me anxious to behold some semblance of even-handed justice in this district, and makes me anxious to see those who are entrusted with the administration of our laws respected, and their judicial decisions entitled to respect.

Therefore it is that I protest against the Bench of Magistrates at Wollongong, as at present con-

- 1st. Because, from the uncontrollable irritability of the Police Magistrate's temper, he is frequently incapacitated from giving cool and collected consideration, or deliberate judgment, upon cases brought before him.
- 2nd. Because, from the strong bias of his prejudices, and his antipathies, his judgment is weakened, if not entirely obliterated for the time, and those against whom he entertains dislike, are exposed to coarse, insulting language, and injustice.
- 3rd. Because the number of Magistrates is too few, and the preponderating influence of the combined power of three of the four—two of them being brothers, is too great where partizanship exists uncontrolled by that nice sense of honour, and high-minded independence, oppression and injustice will necessarily result: partial decision will take the place of justice, and questions are likely to be decided by a majority of numbers, rather than by a majority of reason.
- 4th. Because, I have no confidence in this Bench of Magistrates, and believe that Dr. J. Osborne, and the Police Magistrate, are capable of descending to the most unjustifiable means to gratify their malice; I therefore do not

to gratify their malice ; I therefore do not feel either my character or my person safe, so long as the number of Magistrates shall remain limited to four, and their power be unchecked by the absence of more honorable and more independent men.

I have now performed what I consider to be due to my full vindication, in reply to the Police Magistrate's letter of the 8th of November, to which I should have replied sooner, but was prevented by various circumstances : and as it is the last time I shall trouble your Excellency on the same painful subject, I trust you will excuse the length and nature of this communication.

I have the honour to be,

With great respect,

Your Excellency's

Most obedient humble servant,

GEORGE UNDERWOOD ALLEN.

Wollongong, 15th Dec., 1842.