

(No. 18.)



1859.

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T A S M A N I A.

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M R. M O R G A N.

P A P E R S.

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Presented by Mr. Chapman, and ordered by the House to be printed, 17 August, 1859.



*The Statement of JOHN MORGAN, a Lieutenant on Half Pay of Her Majesty's Royal Marine Forces, and now a Resident in this Colony.*

RESPECTFULLY SHOWETH :

1. THAT he received his first Commission on the 25th July, 1812, and joined immediately, and was ordered to a Detachment of his Corps under Lieutenant-Colonel Torrens, which had been employed against the Danes in the defence of the Island of Anhalt, in the Baltic, and which afterwards formed the Second Battalion of Royal Marines for service (with the First Battalion) in the Northern Provinces of Spain, with the Guerilla Forces, and the Allied British and Spanish Armies, under the Duke of Wellington.

2. That he had the honor to share in the thanks of the British Parliament for the services rendered by the Brigade of Marines in which he served, and by the Royal Navy, during the blockade of Santona, first blockade and siege of St. Sebastian, and capture of Bilboa, Barcelona, Castro, and occupation of Saint Andero, in 1812; at the close of which year, the Allied Armies having crossed the Pyrenees into France, the Brigade of Marines was ordered home to be reinforced to two thousand strong, and prepare for the War with the United States of North America, 1813.

3. That he served with the Second Battalion in the Expeditionary Army, commanded by Generals Sir Sydney Beckwith and Sir Charles Napier (afterwards Governor of Scinde), on the North Coast of America, and afterwards in the Canadas during all that War, and was present at Norfolk, Hampton, Portsmouth, Queenstown, and at the taking by assault of the Fort and Town of Oswego (May 6, 1814), in a subsequent night attack upon which place (in order to capture, by cutting out, a Flotilla of boats with Naval Stores), he was wounded by a musket shot, but not so seriously as to entitle him to more than one year's pay, in the opinion of the Medical Board by whom he was officially examined, although from its effects, and exposure in open boats on Lake Ontario, he suffered very severely afterwards for many months.

4. That for his conduct on these occasions he was honorably noticed by his Commanding Officers, as will be seen by accompanying documents.

5. That at the close of the American War he was placed on the extra Staff of the Quarter-Master General's Department, and employed in that capacity in passing down the right Division of the Army under Generals Sir James Kemp and Sir Frederick Robinson, from the Niagara frontier on its way to Belgium, previous to the Battle of Waterloo.

6. That the wars in Europe and North America having terminated, he was some time after placed on Half Pay by the reduction of his Corps to the Peace Establishment; and, on the determination of the British Government to found a Colony on the Western Coast of Australia, he received the civil appointment of Government Storekeeper, (there being no Commissariat,) and accompanied Admiral, then Captain, Sir James Stirling, R.N., to Swan River, where, shortly after, with others, he received a grant of Land, in accordance with a scale of regulations for awarding Land to all those who imported property into that Colony, such award in no way involving the remission land for services as stated in the Regulations affecting Officers settling in the British Colonies, as will be seen by the annexed Certificates, the validity of which, they being signed by the Governor-in-Chief and Surveyor-General of Western Australia, your Memorialist believes will not be questioned.

7. That he was ordered on from Swan River to this Colony by the Right Honorable the Secretary of State, and with the sanction of the Lords of the Admiralty, to take charge of the

District of Richmond as Police Magistrate, an appointment unsolicited by him, where he arrived in 1834, which office he resigned in 1836, without reproach on his official conduct or character, as accompanying documents show, and soon after applied for a Remission Order for the purchase of Land at the Huon, and was informed, in reply, that his application could not be acceded to, *because he had received Land at Swan River*, previous to his arrival in this Colony; and to subsequent application to the several Governors, since Sir George Arthur, the answer given has been to a similar effect.

8. That to a recent appeal for a Remission Order, and supported by the required Certificates from Swan River and my Lords of the Admiralty, he has been informed by the Honorable the Colonial Treasurer that his "claim has been extinguished by *The Local Waste Lands Act*,"—and, as he believes, he is the only Half Pay Officer in the Colony so circumstanced, all those on Full or Half Pay, who had previously applied, having received their Remission Orders on the *real meaning and intent* of the Regulations, and not on their *strict letter* only, as instances, amongst others, Captain Sir Henry Atkinson, R.N.; Lieutenant-Colonel Ainsworth; Major Russell; Captain Mackay, Barrack-Master; Commander Drew, R.N.; Doctor Hampton, R.N.; and Lieutenant Bennison; all having arrived here, not in strict accordance with the Regulations, with the primary object of settling in this Colony, but all holding either Civil or Military appointments.

9. That he respectfully submits that, as regards his case, the decisions arrived at have not been just, but founded on the erroneous opinion that by his having received Land in Western Australia as a settler (which Land has proved valueless to him), he compromised his claim as an Officer who had served his Sovereign and Country faithfully and honorably, at the hazard of life and limb, such a compromise never having been contemplated by himself, or the British authorities, at the time the scale for granting Lands to settlers at Swan River was promulgated and acted upon, as an inducement for persons of his class to emigrate, neither can it be supposed it was ever intended that his interests should *irredeemably* suffer by the temporary absence of Certificates, which he now produces.

10. That he is anxious to avoid an appearance of egotism; still, he feels bound to add that on all occasions of apparent State emergency, although on Half Pay, he has volunteered his services to the Home and Local Governments, and especially to the former at the commencement of the late war.

11. That since retiring from the Stipendiary Magistracy he has devoted himself chiefly to literary pursuits, and used his best energies for the promotion of truth, justice, and humanity, without regard to his own pecuniary means, which now, at sixty-five years of age, he finds altogether inadequate to the respectable support of himself and family.

JOHN MORGAN.

Hobart Town, Tasmania, August 16, 1859.

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CERTIFICATES RELATIVE TO LAND.

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[No. 20.]

Downing-street, 29th November, 1832.

SIR,

WITH reference to my Despatch of the 6th February last, instructing you to abolish the situation of Civil Storekeeper and to provide Mr. Morgan with some other employment, I have now the pleasure to authorise you to offer for that gentleman's acceptance an appointment at Van Diemen's Land which has lately become vacant, and which I trust will prove desirable to Mr. Morgan. The office in question is that of Police Magistrate at Richmond, with a salary of £300 per annum, to one half of which Mr. Morgan will be entitled from the date of his embarkation for Van Diemen's Land. Should Mr. Morgan accept the situation, you will intimate to him the necessity of his repairing to that Colony with as little delay as possible. You will also furnish him with a Letter of Introduction to Colonel Arthur, reporting to me at the same time the decision of Mr. Morgan.

I am, Sir,

Your most obedient humble Servant,

GODERICH.

Governor STIRLING, &c. &c. &c.

The above is a true copy of the original,

PETER BROWN, Colonial Secretary.

*Colonial Secretary's Office, Perth, 30th December, 1830.*

SIR, THE Commissioners of the Board of Counsel and Audit having represented that you have entitled yourself, by an importation of property applicable to the cultivation of land, to make a selection to the extent of four thousand six hundred and forty acres, I am directed by His Excellency the Lieutenant-Governor to acquaint you that he approves of your selecting that quantity in any District that may be open for location, and of your choosing such lots of ground within the vicinity of any Town as you may be entitled to occupy consistent with the Land Regulations.

I am, Sir,

Your obedient Servant,

PETER BROWN, *Secretary to Government.*

JOHN MORGAN, *Esq., Garden Island.*

[No. 4.]

*Downing-street, 2nd July, 1858.*

SIR, I TRANSMIT herewith, for your information, the copy of a letter from Mr. L. W. Tear enclosing an application from Mr. John Morgan to be allowed to receive a Remission Order for Land as a Military Settler in Tasmania, together with a copy of the answer which by my desire was returned to Mr. Tear.

I have to request that you will cause a copy of this letter to be communicated to Mr. Morgan, whose address in Tasmania appears to be Macquarie-street, Hobart Town.

I have, &c.,

E. B. LYTTON.

*Governor* SIR HENRY YOUNG, *C. B.*

LORD CARNARVON *to MR TEAR.*

*Downing-street, 5th July, 1858.*

SIR, I AM directed by Secretary Sir E. Bulwer Lytton to acknowledge the receipt of your letter of the 22nd ultimo, enclosing a letter from Mr. John Morgan, in which he requests to be allowed to receive a remission order for land as a Military Settler in Tasmania.

In answer I am to transmit to you the accompanying printed Notice which has been drawn up for the information of Officers of Her Majesty's Army or Navy who may be desirous of settling in the Colonies, and to state that any application which Mr. Morgan may have to make for a grant of land in Tasmania should be addressed to the Local Government, with whom the exclusive control in such cases now rests.

I am to add, however, that, under the regulations which were in force when the control of the waste lands in Tasmania was still in the hands of the Home Government, Mr. Morgan would not have been entitled to any advantage in the acquisition of land in Tasmania as a Military Settler, as he had already received a Grant of Land in Western Australia as one of the original Settlers in that Colony.

You will be able to obtain from the Board of Admiralty any certificate which may be necessary of Mr. Morgan's services as an Officer of the Royal Marines.

I am, &c.,

CARNARVON.

*Surveyor-General's Office,  
14th February, 1855.*

THIS is to certify that Mr. John Morgan has not received any Remission Order for land in this Colony as a half-pay Officer of Marines.

R. POWER, *Surveyor-General, Van Diemen's Land.*

*Western Australia, Colonial Secretary's Office,  
Perth, 22nd April, 1858.*

SIR, I HAVE submitted your letter of the 20th instant to His Excellency the Governor, and have much pleasure in informing you that His Excellency has directed me to prepare the Certificate you have requested, which I beg herewith to transmit.

I have the honor to be,

Sir,

Your obedient Servant,

J. W. CLIFTON *pro Colonial Secretary.*

JOHN MORGAN, *Esq., Perth.*

*Western Australia, 12th April, 1858.*

THESE are to certify that no Land in Western Australia has been granted through the Survey Office to Mr. John Morgan on account of Military services,—the land to which he entitled himself in the early days of the Colony having been awarded to him in right of property imported into it, as will be seen on referring to the Schedule which passed the Board of Audit at that period.

W. ROE, *Surveyor-General.*

Confirmed—A. L. KENNEDY, *Governor.*

*Western Australia, Colonial Secretary's Office,  
Perth, 22nd April, 1858.*

THESE are to certify that there is no record of any Remission Certificate having been issued in this Colony to John Morgan, Esquire, H.P. Royal Marines, to enable him to select Crown Lands in right of Military Service.

By Command,

J. W. CLIFTON *pro Colonial Secretary.*

Confirmed—A. L. KENNEDY, *Governor, &c.*

*Admiralty, 28th August, 1858.*

THIS is to certify that Second Lieutenant John Morgan is an Officer of the Royal Marines, with seniority in that rank of 25th July, 1812, and that he has the permission of the Lords Commissioners of the Admiralty to emigrate to Tasmania.

W. G. ROMAINE.

*Colonial Treasury, 10th November, 1858.*

THE Colonial Treasurer, in reply to Lieutenant Morgan's letter of the 25th ultimo, has to acquaint him that the Waste Land Act does not authorise compliance with the request.

*Lieut. MORGAN, 190, Macquarie-street.*

*Admiralty, 6th April, 1859.*

SIR,

IN answer to your letter of the 16th December last, I am commanded by my Lords Commissioners of the Admiralty to send you herewith a Certificate sanctioning your emigrating to Tasmania.

I am, Sir,

Your obedient Servant,

W. G. ROMAINE.

*Lieut. JOHN MORGAN, R.M.,  
190, Macquarie-street, Hobart Town, Tasmania.*

MEMO.—My letter of the 16th December referred to the Colonial Treasurer's reply, dated November 10, 1858, herewith forwarded.

J. M.

THIS is to certify that Second Lieutenant John Morgan, of Royal Marines, entered the service in that rank on the 25th of July, 1812, and that he has the permission of the Lords Commissioners of the Admiralty to emigrate to Van Diemen's Land on the 25th October, 1855.

W. G. ROMAINE.

*Admiralty, 6th April, 1859.*

MEMO.—This certificate has reference to a date "October 25, 1855," which, I have no doubt, was kindly intended by their Lordships to prevent my claim being prejudiced by the Tasmanian Waste Lands Act of *November of the same year.*

JOHN MORGAN.

*Colonial Secretary's Office, 2nd February, 1856.*

SIR,

I AM directed to acquaint you that the Governor has been honoured with a despatch from the Right Honourable the Secretary of State acknowledging the receipt of one from His Excellency, accompanied by your Memorial praying for a grant of land as a Military Settler.

Lord Panmure states that it *appears* that you *went out* as a SETTLER in 1829 to Swan River, where you received a grant of land, *but forfeited it* in consequence of not complying with the regulations, and that you proceeded to this Colony in 1834.

His Lordship further observes, that in 1835 you applied to the Lieutenant-Governor for a grant of land, but were refused *on the ground that you had already received one at Swan River*; and on a reference of your case to the Colonial Office, the Secretary of State confirmed the decision against you, on other grounds connected with *the construction which at that time was enforced of the regulations respecting Military settlers*.

His Lordship is not aware of any sufficient reason for reversing this decision.

I have the honour to be,  
Sir,

Your very obedient Servant,

W. CHAMP.

JOHN MORGAN, *Esquire, Hobart Town.*

N.B.—I received, as will be seen by one of the documents attached, an order or permission to select 4640 acres, and did so on the Canning River, but was only able to fulfil the regulations for 2000 acres, for which I received, and now hold a grant deed. The remaining portion of the award was consequently forfeited and resumed, after I left Swan River for Van Diemen's Land. It will be seen by this, that the Secretary of State did not understand the merits of the case.

J. M.

2ND NOTE.—What the "construction" put upon the regulations "enforced at that time" was, I cannot tell, but suppose it had reference to Officers *selling out* of the service for the purpose of emigrating to particular Colonies. I did not do so.

J. M.

August 1, 1859.

SIR,

I do myself the honor to request from your Office an extract from a Report of the Surveyor-General, dated February 4, 1856, on my application for Land, dated January 26, 1856, by which it appears recorded that long previous to the latter date I had applied for a Remission Order, which has not been allowed.

I have the honor to be,  
Sir,

Your obedient Servant,

JOHN MORGAN, *H.P. Royal Marines.*

*The Surveyor-General, Tasmania.*

The following is an extract from the Report in question:—

4th February, 1856.

"The Governor decided against Mr. Morgan's claim to Remission Money a great many years ago, but the papers are not in this Office. I presume they are with the Colonial Secretary."—R. POWER.

J. E. CALDER.

*J. Morgan, Esq.*

*Colonial Secretary's Office, Western Australia,  
Perth, 27th March, 1858.*

SIR,

I HAVE submitted to His Excellency the Governor your letter of the 25th instant, applying for a Remission Order for Land in this Colony as a Subaltern Officer of Royal Marines of more than twenty years standing, and have the honor to draw your attention to the following clause in the Regulations of July, 1853, published for the information of Officers of the Army desirous of settling in certain British Colonies:—

"In order to take advantage of this privilege, Officers of the Army and Navy and Royal Marines should provide themselves with a Certificate from the Officer of the General Commanding-in-Chief, or of the Lords Commissioners of the Admiralty, or of the Master-General of the Ordnance, showing that their settlement in a British Colony has been sanctioned, and stating their rank and length of service; no document from the Office of the Secretary of State is necessary."

Till therefore the receipt of a Certificate of the above nature, it will not be in the power of His Excellency the Governor to entertain your application.

I return herewith the Certificates from the Surveyor-General of Tasmania and the Commission as 2nd Lieutenant Royal Marines, with your letter.

I have the honor to be,  
Sir,

Your very obedient Servant,

FRED. P. BARLEE.

JOHN MORGAN, *Esquire,  
H. P. Royal Marines, Perth.*

## LAND REGULATIONS.

AFTER observing upon this grant, this writer proceeds to state the conditions on which other settlers obtained land in the following passage:—"It was declared that all the world should be entitled to unlimited grants on either one of two conditions, as the grantee should prefer; either an outlay of one shilling and sixpence per acre in conveying labourers to the settlement, or *the investment of Capital on the land at the rate of one shilling and sixpence per acre.*" These conditions, he goes on to contend, are at variance with each other; but on this point his information has been erroneous. No land could be obtained on the second condition; and, on the first, *land was assigned in occupancy only* (it still continuing crown land), *until the improvement required by the second condition was effected, when the occupant became entitled to the fee-simple; but, if he failed to effect the improvement within a stipulated period, his grant reverted to the Crown.*

P.S.—This extract is taken from a work, entitled "The State and Position of Western Australia, commonly called the Swan River Settlement, by Captain F. C. Irwin, Acting Governor of the Colony." It may therefore be received as semi-official evidence.

J.M.

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Hobart Town, 1854.

SIR,

OBSERVING the Public Notice of a Declaration of War between England and Russia, I consider it my duty to tender my services to His Excellency the Lieutenant-Governor, as Her Majesty's Representative in Van Diemen's Land, and to you as the Officer commanding the Troops in this Colony, as an extra Officer of Pensioners, or in any other capacity where they may be made useful.

I have the honor to be,

Sir,

Your obedient Servant,

JOHN MORGAN, *H.P. Royal Marines.*

*The Hon. J. DESPARD, &c. &c. &c.*

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Hobart Town, 1854.

SIR,

WAR having been declared, I do myself the honour to offer my services to you, as the Representative of Her Majesty in this Colony, to act in any capacity in which it may be considered likely they may be useful.

I beg leave to add, that I made a similar offer to the Officer commanding the Troops immediately after observing the necessity there might be for all Officers on full or half pay tendering their services, as an example to others.

I have the honor to be,

Sir,

Your obedient Servant,

JOHN MORGAN, *H.P., Royal Marines.**His Excellency*SIR W. T. DENISON, *Lieut-Governor, &c. &c. &c.*


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Government House, 29th June, 1854.

SIR,

I HAVE to acknowledge the receipt of your letter of the 1st of May last, offering your services to His Excellency the Lieutenant-Governor, and to the Colonel commanding the Troops, "as an extra Officer of Pensioners, or in any other capacity in which they may be made useful," and I am directed to thank you, and to say your name is noted accordingly.

I have the honor to be,

Sir,

Your most obedient Servant,

EDWARD LAST, *Lieut.-Colonel, Private Secretary.*

JOHN MORGAN, *Esq., H.P. Royal Marines.*

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*Government Offices, Melbourne, 13th December, 1854.*

DEAR SIR,

I AM obliged to you for your kind expressions towards myself.

On the part of the Lieutenant-Governor I am desired to tender you his thanks for offer of service in this Colony, and to say that, although His Excellency is unable to avail himself of that offer at present, he has desired a record to be made of your wishes. I need hardly add that I am much pleased to hear of the success of your application to the Admiralty.

Believe me, Dear Sir,  
Yours very truly,

J. H. KAY, *Private Secretary.*

J. MORGAN, *Esquire, H. P.*

*Windsor Castle, January 7, 1853.*

SIR,

I AM commanded by His Royal Highness Prince Albert to acknowledge the receipt of the volumes which you have been good enough to send through Mr. Dickens, and to assure you of the gratification which His Royal Highness has derived from this expression of your loyal attachment to your Queen and native country.

I have the honour to be,  
Sir,

Your obedient Servant,

C. GREY.

J. MORGAN, *Esquire.*

I CERTIFY that I have compared the foregoing with an original letter purporting to be the Honorable Charles Grey's, and that it is a true copy of such letter.

WM. SORELL, *Justice of the Peace.*

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SOLICITOR-GENERAL'S *first Opinion on Mr. Morgan's Case, March 21, 1859.*

1. THE statement of Mr. Morgan's claim is so imperfectly set out in his letter to the Colonial Treasurer of March 1st, 1859, that I have made every endeavour to supply the deficiencies from Records in several of the Public Offices. From the best information that I can procure it appears—

2. That on the 28 October, 1835, Mr. John Morgan, by letter to Mr. Colonial Secretary Montagu, applied for "the 600 acres of land to which (as he alleged) he was entitled as a Subaltern Officer of upwards of 20 years' standing," referring therein to Certificate of "Leave of Absence." The only Certificate of Leave of Absence appears to be a letter dated 26 November, 1831, from Mr. Secretary Barrow to Mr. John Morgan, informing him that the Lords of the Admiralty have given him 2 years' leave of absence, to date from the 29 December, 1830, under the following among other restrictions:—"That should you have occasion to continue longer abroad than the time for which your leave is hereby granted, you apply, in due time, to their Lordships for a renewal of it." This leave of absence does not appear to have been renewed (except by the Certificate from the Admiralty dated 28 August, 1858), and it expired on 29 December, 1832, long before Mr. Morgan's application as above.

3. In reply to the Governor's desire to be informed what quantity of land had been given to Mr. Morgan, either as a settler or as an Officer, Mr. Morgan, by letter to the Colonial Secretary, dated 9 November, 1835, states that he never received any land on account of his services as an Officer.

4. On 11 November, 1835, a Minute of Governor Arthur on the last-mentioned letter says, "Inform Mr. Morgan that I apprehend his having received land as a settler in the Swan River Colony disqualifies him from receiving any here as an Officer; but I will refer his claim to the Secretary of State;" and it appears from a Despatch from Lord Panmure to the Governor, October, 1855, that Mr. Morgan's case was referred to the Colonial Office, and that the Secretary of State confirmed the decision of the Governor on other grounds connected with the construction (which at that time was enforced) of the Regulations respecting Military settlers. The above decision of Lieutenant-Governor Arthur is not founded, as Mr. John Morgan assumes, on the supposition that he had received his service land at Swan River.

5. It appears that Mr. J. Morgan applied to the Secretary of State direct to be allowed to exchange his land in Western Australia for an equivalent in land here, but that such application was refused.



6. By letter to the Colonial Secretary, dated 30 May, 1836, Mr. Morgan (referring, I presume, to the Governor's offer to refer to the Secretary of State,) says that the Governor "sanctioned a conditional remittance" to him of £150; he asks leave to select land, and says he "would pay the £150 should the Governor refer the question home and it be not approved."

7. The indulgence of which Officers might avail themselves in October, 1835, is to be ascertained by reference to "Information for the use of Military and Naval Officers proposing to settle in the British Colonies," issued from the Colonial Office, (Downing-street), 15 August, 1834. So much as relates to this matter is as follows:—

- (1.) Annexed is a Statement of the Regulations according to which, with such modifications as local circumstances render necessary, Lands belonging to the Crown are disposed of in the Australian Colonies.
- (2.) Under these Regulations Military and Naval Officers cannot receive free grants of land; but in buying land they are allowed a remission of the purchase money according to the scale.  
Subalterns of 20 years' service and upwards, in the whole. . . £150
- (3.) Officers who propose to proceed to the Colonies in order to take advantage of this indulgence should provide themselves with certificates from the Office of . . . , the Lords Commissioners of the Admiralty, showing that their emigration has been sanctioned.
- (4.) Officers on half-pay residing in the Colony where they propose to settle, may be admitted to the privileges of Military and Naval settlers without referring to this country for testimonials, *provided they can satisfy the Governor that there is no objection to their being allowed the indulgence*, and their return of their rank and length of service is accurate, and *provided if they belong to the Navy that they produce their letter of leave of absence from the Admiralty*. The terms upon which Crown lands were then disposed of were by public sale, the price depending upon the quality of the land and its local situation, the lowest upset price then being 5s. per acre.

8. It is obvious that beyond the mere force of the Regulations themselves, and the *application* of the Officer and the *fact* of his service, two other things must concur to confer even an equitable title, viz.—1st. The production of his letter of leave of absence from the Admiralty; and 2ndly. That he should *satisfy the Governor* that there is *no objection* to his being allowed the "indulgence."

Mr. Morgan founds his claim upon the words of the Statute 18 & 19 Vict., cap. 56, s. 6.—  
"Nothing herein contained, nor any Act to be passed as aforesaid, shall affect or be construed to affect any contract, or extend to prevent the fulfilment of any promise or engagement, made by or on behalf of Her Majesty with respect to any lands situate in either of the said Colonies of New South Wales and South Australia, where such contract, promise, or engagement shall have been lawfully made before the time when this Act shall take effect in such respective Colony."

Now, in the first place, supposing that Mr. Morgan were for the first time making his application since the Act came into operation, the only contract, or promise, or engagement would be the Regulations themselves; that is to say, the general promise or undertaking made on behalf of Her Majesty by the Regulations that Officers should have land if they should apply for it upon the terms of the Regulations. In my opinion this is not the fair construction to be put upon the Statute, nor can I think that if the Legislature intended to perpetuate the Regulations (not acted upon) they would have expressed themselves in such terms, without any reference to the Regulations: Mr. Morgan admitted to me that the Statute could not mean that. There must, then, be some contract or promise or engagement *ultra* the Regulations. Now, the Governor to whom Mr. Morgan applied first did not contract or promise; he decided against Mr. Morgan's claim: the same reply, as Mr. Morgan states, was made by three succeeding Governors. Where, then, is the contract or promise or engagement? All that remained was the promise of Governor Arthur to refer to the Secretary of State, and Mr. Morgan's virtual undertaking to abide by the decision of the Secretary of State, and his admission that, when given, it would be final, implied by his promise to *pay* the £150 in the event, which has happened, of an adverse decision.

9. Mr. Morgan, by letter to the Colonial Secretary, dated January 24, 1856, asserted a claim to 300 acres of land under the Service and Land Regulations. A copy of a letter from the Colonial Secretary, 2 February, 1856, to Mr. Morgan is to the effect that his claim has been disallowed by the Secretary of State, and that His Excellency was not aware of any reason for reversing that decision. And on Mr. Morgan's letter of 24 January, 1856, there is a minute of the Governor's approving of the intimation that Mr. Champ (Colonial Secretary) had verbally given to Mr. Morgan that his claim was inadmissible, he having received a Grant under former Regulations at Swan River, and that the "Orders" did not apply to any Officers except those who emigrated expressly to take advantage of them. And it is manifest that the orders referred to did not apply to Mr. Morgan, viz., the Memo. issued from the Admiralty 20 June, 1856, which was promulgated for the information of Officers "proposing to settle in the Australian Colonies;" and which pointedly invited attention to a Regulation which declared that the required certificate from the Lords of the Admiralty would not, on any account, be issued to any Half-pay Officer who had resided for the two years preceding that date.

in the Colony in which he might apply for land under those orders; and I may observe, that these orders gave express notice that they might be rendered inoperative by the Legislature of any one of the Colonies so soon as a Representative Legislature should be established therein.

Upon the whole, I cannot discover in this state of facts any contract, promise, or engagement made by or on behalf of Her Majesty with or to Mr. Morgan; and therefore I cannot see that Mr. Morgan has any legal claim; and if he ever had, under the Regulations, a possibility of establishing such a claim, I think that (in the events that have happened) it was extinguished by the Statute which transferred the disposal of the Waste Lands to the Parliament of this Colony.

It will be seen that I have carefully considered the contents of Mr. John Morgan's letter to the Colonial Treasurer, dated March 21, 1859, and the documents which accompany it; viz., those marked by me A 1, A 2, A 3, A 4, A 5, A 6, A 7, all which I herewith return to the Colonial Treasurer.

I have delayed, in compliance with Mr. Morgan's request to me personally, to give an earlier answer to the Colonial Treasurer's question.

THOS. J. KNIGHT, *Solicitor-General.*

21 *March*, 1859.

MEMO.

23rd *June*, 1859.

MR. MORGAN has handed to me for perusal certain documents hereunder referred to, desiring, with the approval of the Colonial Treasurer, that I would reconsider the opinion that I gave upon his case. I have perused them attentively. It appears that, in reply to Mr. Morgan's request to the Secretary to the Admiralty, by his letter dated December 16, 1858, as follows: "That I may without delay be furnished with such a Certificate as may officially show that I came here, and am here, by their sanction." The Admiralty Secretary, by letter, 6th April, 1859, states, "I am commanded . . . . . to send you herewith a Certificate sanctioning your emigrating to Tasmania." That Certificate is as follows: "This is to certify that Second Lieutenant John Morgan of Royal Marines entered the service in that rank on the 25th July, 1812, and that he has the permission of the Lords Commissioners of the Admiralty to emigrate to Van Diemen's Land on the 25th October, 1855. Admiralty, 6th April, 1859."

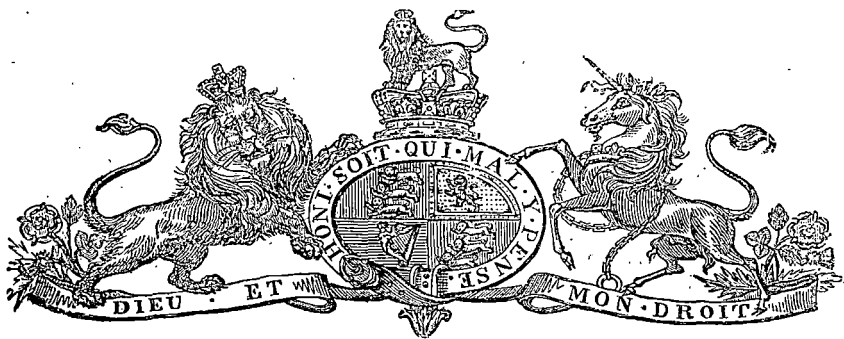
I have already said, that Mr. Morgan's proposal to pay the £150, "should the Governor refer the question home and it be not approved," seems clearly to be an undertaking to abide by the decision of the Secretary of State, and that the Secretary of State decided against Mr. Morgan.

The additional documents do not, in my opinion, prove that either of the Lieutenant-Governors or that the Secretary of State decided adversely to his claim under a mistake of facts; for the Certificate of 6th April, 1859, does not bring Mr. Morgan's claim within the terms of the Circular from the Colonial Office of 15th August, 1834, (referred to in my former opinion, paragraph 7,) nor within the Orders of 20th June, 1851, (which Orders Mr. Morgan produced to me,) nor does the Certificate (of 6th April, 1859,) in any way account for the apparent non-renewal, within two years from 29 December, 1830, of Mr. Morgan's leave of absence, or for its non-renewal at any time between that and the 25th October, 1855.

For these reasons, and for the reasons that I before stated, I am unable to say that Mr. Morgan has any legal claim: the documents separately and collectively induce me to believe that he never had any, and a Memorial from Mr. Morgan attached to the Papers referred to in paragraph 9 of my former opinion confirm me in that belief; and I adhere to my opinion that if Mr. Morgan, under the Regulations, ever had any possibility of establishing such a claim, it was (in the events that have happened) extinguished by the Statute.

THOS. J. KNIGHT.

*The Hon. the Colonial Treasurer.*



*ADDENDA to MR. MORGAN'S Paper, No. 18.*

SERVICE CERTIFICATES.

*From Admiral, K.C.B., then Captain O'CONOR, Flag Captain of the Fleet on Lake Ontario.*

*London, April 11, 1832.*

MY DEAR SIR,

IN reply to your letter of the 10th instant, I beg leave to inform you I shall feel great pleasure in bearing testimony to the zeal and activity evinced by you while serving in the Canadas, and more particularly to your conspicuous gallantry at the storming and capture of Oswego, sincerely hoping that your merits may obtain that honorable consideration so justly your due. I beg to assure you I shall at all times be most ready to come forward with any evidence of mine that may contribute to your welfare and advancement.

And remain, my dear Sir,  
Yours most respectfully,

*Lieut. MORGAN, R.M., &c. &c.*

RICHD. O'CONOR.

*From Captain OWEN, R.N., who commanded the Flotilla on the River St. Lawrence, &c.*

*Cheltenham, June 14, 1823.*

DEAR SIR,

IT would have given me very sincere pleasure if I had had it in my power to be of any service to you; but I can only offer you my most earnest wishes for your success. I regret my inability, not only from personal motives of regard towards yourself, but from the desire which all real friends of Government must have, of seeing honourable and proper persons appointed to places in the administration of it. And I am sure the distinguished character you bore on the Lakes in Canada will be a sufficient guarantee to your friends that you are particularly qualified to fill any situation in the Civil department, not only with credit to yourself, but to those who may obtain it for you.

Believe me to be, dear Sir,

With great esteem, yours very sincerely,

C. C. OWEN.

*J. MORGAN, Esq., Royal Marines.*

*From Lieutenant-Colonel Sir JAMES MALCOLM, R.M., 2nd Battalion.*

*Chatham, June 2, 1823.*

MY DEAR MORGAN,

IT will give me the greatest pleasure to hear of your success in any way that will most benefit yourself. You served with me as a very young Officer for two years and a half, in some severe service, and in situations of a harassing and trying nature, and to which much consequence was sometimes attached. During the time you were under my command you gave me that satisfaction that has left a personal friendship for you, &c. &c.

I ever am yours, most sincerely,

J. MALCOLM.

*J. MORGAN, Esq.*

*From Colonial Secretary, Western Australia.*

*Colonial Secretary's Office, Perth, October 27, 1833.*

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 25th instant, tendering your resignation of the office of Resident Magistrate of Perth, in consequence of your early departure from this Colony. Having laid the same before the Lieutenant-Governor, I am directed by His Honor, in communicating his acceptance, to acknowledge the services rendered by you while holding that situation.

I am Sir,

Your most obedient humble Servant,

*JOHN MORGAN, Esq., Perth.*

*PETER BROWN, Colonial Secretary.*

[I was kept at Swan River about twelve months after this, waiting for a passage.—J.M.]

*From the same to the Colonial Secretary of Van Diemen's Land.*

*Western Australia, Colonial Secretary's Office,  
Perth, October 23, 1833.*

SIR,

AT the request of Mr. Morgan I have much pleasure in bearing testimony to the correctness of his representation. I do not myself see how Mr. Morgan, even had an opportunity offered, could have availed himself of it, as the short time which has elapsed since he received Mr. Hay's letter would not have afforded him sufficient time to wind up his numerous and intricate Store accounts. I feel, however, satisfied that he will not, after the completion of his duties here, allow any good opportunity to escape him.

Mr. Morgan having been with us since the first establishment of the Colony, and assisted most strenuously the Local Government by his indefatigable exertions, and having all this period conducted himself in a manner most creditable to him, I trust I may not be considered presumptuous, knowing the universal esteem that exists here towards him, in requesting your kind auspices to him when he arrives at Hobart Town.

I have the honor to be, Sir,

Your most obedient humble Servant,

PETER BROWN, *Colonial Secretary.*

*The Hon. J. BURNETT, Esq.,  
Colonial Secretary, Van Diemen's Land.*

*From the Private Secretary, Capt. MACONCHIE, R.N., acknowledging my resignation of the  
Commission of the Peace.*

DEAR SIR,

I AM directed by the Lieutenant-Governor to acknowledge the receipt of your letter to him tendering your resignation of the Magistracy.

His Excellency regrets extremely to hear your reasons for taking this step, and also that the Colony should thus be deprived of your valuable services in the Commission of the Peace; but under all these circumstances, and tendering you his thanks for your past exertions, he accepts your resignation.

I have the honor to be, dear Sir,

Yours faithfully,

J. MORGAN, *Esq.*

J. MACONCHIE.

UNDERSTANDING that a Memorial intended to promote the interests of Mr. Morgan is in course of signature, I think the object contemplated may be facilitated by my stating, that the Certificates referred to of his conduct, character, and services in Spain and America during the war are such as entitle him to favourable consideration and reward. As a private individual, I have much pleasure in saying I believe Mr. Morgan to be a highly estimable character, and it will at all times be most satisfactory to me to bear testimony to his worth.

W. H. ELLIOTT,

*Lieut.-Colonel 51st Regt., Commanding the Troops.*

*Hobart Town, March 24, 1843.*

*Society's House, 29, Bridge-street,  
Blackfriars, March 23, 1827.*

SIR,

I HAVE the honor of informing you that the General Court of the Royal Humane Society has awarded an honorary medallion to you, for your gallant and praiseworthy conduct in rescuing a seaman from a watery grave. I am directed to request the favour of your company at the Anniversary Festival on Thursday, the 5th April, at the City of London Tavern, Bishopsgate-street, to receive the medal from the hands of His Grace the Duke of Northumberland, K.G., President.

I have the honor to be, Sir,

Your obedient Servant,

J. FROST, *Secretary.*

J. MORGAN, *Esq., R.M.*

NOTE.—The upset price of Public lands having been raised from five to twenty shillings per acre, the price of Remission Orders to Officers was raised at the same time by the Secretary of State, and the scale for all services now stands as under; viz.—

Field Officers of 25 years' service and upwards, in the whole, £600.  
Field Officers of 20 years' service and upwards, in the whole, £400.  
Captains, 20 years' service and upwards, in the whole, £400.  
Captains, 15 years' service or less, in the whole, £300.  
Subalterns of 20 years' service and upwards, in the whole, £300.  
Subalterns of 7 years' service, in the whole, £200.  
Subalterns less than 7 years, no remission allowed.

J. M.

*August, 1859.*