

CHAPTER 4

John Gurner

John Gurner (Reference n) was born in England on 3rd August, 1792 and he had been a clerk to Justice Barron Field in England. When Justice Barron Field was appointed to be the first judge of the Supreme Court of N.S.W. he must have asked John Gurner if he would be prepared to go to Australia with him and, no doubt, after discussing the matter with his wife, John Gurner decided to go. Justice Barron Field and his family and Mr. and Mrs. Gurner sailed on the "Lord Melville" arriving in Sydney in February, 1817. The trip was not without excitement as, during one part of the voyage, their ship was chased by pirates (Reference o). The voyage took six months to complete. John was then 24 years of age and his wife two years younger.

Acknowledging the arrival of the "Lord Melville" Governor Macquarie wrote to Earl Bathurst in England on 4th April, 1817 as follows -

Despatch marked No. 18 of 1817 per H.M. Brig "Kangaroo".

My Lord:

(First of all there was a very long list of news items of no interest to this book)

"Barron Field Esq., the newly appointed Judge of the Supreme Court and his family, also his clerk Mr. John Gurner (Reference p) came out as passengers in the "Lord Melville".

As a matter of interest the "Lord Melville" carried 100 Female Convicts on Board, Mr. Daniel MacNamara being Surgeon and Superintendent of the said ship. The whole of the female convicts arrived in good health, only one having died on the passage. There were also 11 Free Women, wives of convicts and 44 children. The ship arrived on 24th February commanded by Captain Wetherell."

The official report of John Gurner's appointment (Reference q) says:-

"Mr. John Gurner	Clerk of the Supreme Court
Appointed by	The Crown
Annual Salary	£80 per annum
Whether paid at home or by the Colony	At home
Lodging money or quarters	None
Forage for Horses	None
Rations for himself and family	None
Fuel	None
No. of Government servants	None
Remarks	Himself only victualled"

After a couple of months in the colony, Gurner no doubt realized his £80 per annum was not nearly enough to keep his wife and himself and they were also expecting a baby, so he must have approached Justice Barron Field about an increase in his salary for on 29th April, 1817 Justice Field (who must have been completely satisfied by John Gurner's work) wrote a personal letter to Governor Macquarie stating that he recommended John Gurner for an increase in salary "as he is a small settler, a very respectable man and he has a nice wife about to be confined". The letter went on to say Gurner had been promised a salary of £80 per annum on his appointment as Justice Barron Field's clerk with rations as a civil servant, but he had as yet received nothing more. Justice Field (Reference r) said he proposed to give Mr. Gurner a one-sixth part of the whole of his (Justice Field's) fees.

As a result of the above recommendation, Gurner received a questionnaire containing 20 questions which he answered very fully. Briefly he said he had fulfilled the position of Clerk and Registrar of the Supreme Court (Reference s) since 24th February, 1817 when the Court first opened. He came to Australia with Justice Barron Field. He listed his many duties and said he was receiving £80 per annum paid from the Police Fund and also one-sixth of the fees and a single ration from the store.

No doubt as a result of Justice Barron Field's recommendation, he received a grant of 400 acres of land at Cabramatta, three cows, with three men for 18 months "upon the store" (this phrase apparently meaning food would be supplied for the three men). However, he did not receive an increase in salary.

Some years later John Gurner wrote to the Governor:-

11th June 1825

His Excellency,

The Governor

Understanding that Your Excellency is willing to (al)locate a part of Hyde Park commonly known by the name of the Race Course, I have the honour to enclose for your Excellency a copy of Sir Thomas Brisbane's (Reference t), the then Governor's reply (the original of which is filed on record in the office of the Surveyor-General of the Colony) to an application which I made to his Excellency for an allotment of ground thereon and as a further ground I now most respectfully beg leave to request your Excellency will be pleased to take my claim into your favourable consideration. As a further ground, I would beg leave to add that I came out to the colony in the year 1817 under the sanction of His Majesty's Secretary of State as Registrar of the late Supreme Court and I have ever since that period held the situation under Government, that I have a family of 7 children all born in the Colony and that I have not received any indulgence from the Colonial Government with the exception of the 400 acres of land which was granted to me by His Excellency Governor Macquarie in the year 1817.

I have the honour to be, Sir

Your most obedient and humble servant

John Gurner

The letter from Sir Thomas Brisbane to which he referred was:

Private Secretary's Office

16th June, 1825

Sir:

I am directed by His Excellency the Governor to reply to your letter of the 11th instant and to acquaint you that your request to have a building allotment on the Race Course will meet with favourable consideration when a grant to that quarter shall be disposable.

I have the honour to be Sir

Your most obedient servant

(signed) J. Ovens

Private Secretary

(N.B. The "Race Course" referred to above is Hyde Park)

Apparently upon receiving this letter from John Gurner, Governor Darling referred to Governor Brisbane's reply on file for he wrote on it:-

"I consider this is a valid promise and I have no hesitation in saying that this party is highly deserving of favourable consideration. Mr. Gurner to have a double allotment at Rushcutters Bay."

A further note on the above letter says:-

"He received Lots 10 and 27 at Rushcutters Bay as a result amounting to 7 acres 2 roods 0 perches."

Some time later he must have made a further request for an increase, because he was again requested to report on what he had done with his land grant and he answered by saying on 18th December, 1826:

"I have 80 acres cleared, 122 head of cattle, 16 horses, a log hut of small value, 80 acres fenced with substantial 3-railed fence and 40 acres in cultivation. I have also a house and business in Sydney which cost upward of £900 and have employed and maintained 2 convict servants."

It was probably after this report he received 150 acres of land at Toongabbie, but again he apparently did not receive an increase in salary.

On 3rd March, 1829 John Gurner wrote to Chief Justice Forbes asking for an increase in salary due to considerably increased work - in fact he says his duties had increased tenfold. (Just about this time substantial immigration led to much extra work for John Gurner.) However there is nothing on record to show that he did receive an increase.

A few years later he received Lots 10 and 27 at Ruchcutters Bay and later still he purchased 3 lots near Lots 10 and 27, so his holding in Rushcutters Bay was then:-

				Cost			
				£	s.	d.	
		A.	r.	p.			
12.6.1833	Lots 10 & 27	7	2	0	Granted by the Crown	A peppercorn	
20.1.1835	Lot 23D	2	2	30	Purchased	88	13 9
21.5.1835	Lot 24C	3	0	30	Purchased	95	12 6
25.1.1837	Lot 259	2	0	38	Purchased	98	9 0
				<hr/>			
		15	2	18		282	15 3
				<hr/>			

In 1838 the then Governor of the Colony, Sir George Gipps wrote to Lord Glenelg in London, enclosing a copy of a letter addressed to him by the Judges recommending a higher office in court for John Gurner, Chief Clerk of the Supreme court. Sir George Gipps went on to say: "In complying with their request, I can only say there is no office at present to which Mr. Gurner could be promoted". Lord Glenelg's reply to Sir George Gipps read:

"Sir:

I have received your Despatch No. 103 of 10/7/1838 including a copy of a letter from the Judges of the Supreme Court in favour of Mr. John Gurner the Chief Clerk of the Court and recommending him for higher office in the Court.

I think it is unnecessary to issue any instructions on this subject, as I am convinced that in the event any vacancy occurring

in that branch of the Public Service the recommendations of the Judges in favour of so old and meritorious a public servant will be received by you with all the respect to which it is so justifiably entitled.

I have etc.

Glenelg"

On 13th December, 1841 Colonial Secretary Thompson wrote to Sir James Dowling suggesting that "John Gurner be raised to Prothonotary (Reference u) at a salary of £800 per annum in view of his long service, indefatigable industry, ability and experience, is admirably qualified for the office and that, should he accept it, your Excellency would be pleased to recommend his appointment for the confirmation of Her Majesty.

In the event of Mr. Gurner declining the appointment, I entertain considerable doubt whether there is a Gentleman in the Colony of sufficient standing and character willing to accept it on the terms proposed." He went on to say there had been a succession of resignations as the Chief Clerks did more work than the Registrars, although the Registrars received more money and Chief Clerks, after a period of service, could apply to be attorneys. He added that he believed Henry Burton Bradley was intending to resign.

John Gurner was not made Prothonotary and perhaps because of this, he did resign and went into private practice with another attorney Robert William Robberds. Their firm was J. Gurner and R.W. Robberds, 233 George Street, Sydney.

Mr. Gurner's resignation from the court was recorded in "The Australian" dated 3rd November 1840 as follows:-

"Mr Gurner: Our readers will perceive from our Court Matter on Saturday that this indefatigable and zealous public officer has retired from the position of Chief Clerk and Master of the Supreme Court, which he has filled for a period of four and twenty years with credit to himself and advantage to the Public Service. He has

been admitted to the privilege of an attorney, solicitor and proctor of the Court, with a flattering reception from their Honours the Judges, which must be highly gratifying to that gentleman's feeling.

Mr. Henry Burton Bradley: nephew of Judge Burton and Clerk of the Supreme Court, has also been admitted with similar marks of approbation, ability and zeal in the discharge of his public functions during a period of 5 years in the Office of the Supreme Court."

(It would appear the Supreme Court lost two very valuable public servants in the one day.)

John Gurner's knowledge of law was very much valued and whilst he was in private practice he was given a commission by Queen Victoria "to make diligent and full enquiry into the Constitution (Reference x), the cause of Jurisdictions" so no doubt some of the procedures and laws used in our courts today have been framed by John Gurner and others taking part in that Commission.

The death of John Gurner was reported in "The Sydney Morning Herald" on 17th July, 1882 as under:-

"GURNER: July 17th at "Duxford" Glenmore Road, John Gurner, solicitor, aged 90."

and the Funeral Notice read:-

FUNERALS 19TH JULY 1882

GURNER: The Friends of the deceased Mr. John Gurner, Solicitor, are informed that his funeral will leave his late residence "Duxford", Glenmore Road TO-MORROW (Thursday) AFTERNOON at half-past 2 o'clock and proceed to the Congregational Cemetery, Devonshire Street. W. and H. Kinsela, 118 Oxford Street and George Street.

After John Gurner's retirement he sold about eight acres of his land to Thomas Broughton (1845) and some years later the Government bought two acres for £7,370 for the building of the Glenmore Road Public School, but he retained the rest of his land in Paddington until the time of his death.

The last of his three unmarried daughters who had lived with him at "Duxford" died in 1885 and Thomas Broughton bought the house for £3,100. In 1886 the balance of the Gurner Estate was advertised for auction as under:-

A U C T I O N S A L E S
ON THIS DAY MONDAY, MARCH 2ND, 1885
GLENMORE ROAD, PADDINGTON
BY ORDER OF THE EXECUTORS
OF THE LATE JOHN GURNER ESQ., SOLICITOR

- - - - -

THAT JUSTLY CELEBRATED AND ELEVATED
LARGE PROPERTY THE DUXFORD ESTATE
OCCUPYING, WITHOUT DOUBT, THE BEST POSITION
IN THIS
POPULAR SUBURB

Situated right on the crown of the hill
Commanding Lovely Views
Depth over 80 feet
Extending to a wide lane

This lot is midway between King Street (Newtown Road)
and Wilson Street.

Mr. Licensed Surveyor Binsted has just completed the
Survey which number One Hundred and Thirty-four Lots,
as under:-

Glenmore Road Nos. 1-10, 41-45, 112-123, 131-140
 having frontages of 17'3" to 34ft. with
 depths ranging from 60'-134'. Five of
 these are corners, all others extend to
20' lane.

Cascade Street Nos. 65-84 having frontages of 20' to
 31' with depths of 88' to 132'. Four
 are corners, all others extend to wide
 lane.

Cambridge Street Nos. 59-64 and 81-117 and 124-150
 having frontages of 20'-21' with great
 depths extending to a wide lane.

Gurner Street Nos. 16 and 28-34, frontages range from
 20'-49', depths up to 140ft. to lane.

Broughton Street Nos. 19-27 have frontages varying from
 20'-30', depths up to 115 feet
 extending to lane.

FOR AUCTION SALE
AT OUR ROOMS PITT STREET

THIS DAY, MONDAY 2ND MARCH AT HALF-PAST 11 o'clock
TERMS Very liberal - 20% Deposit, balance
6, 12, 18 and 24 months @ 6 per cent
per annum. No mortgages
PLAN VIEW AND LITHOGRAPHS ARE NOW AVAILABLE.

THE PUBLIC SCHOOL - A commodious and handsome building is on part of the estate. This magnificent estate has for half a century past been the admiration of all the beholders being so visible from many points of observation viz. those including St. Leonards to the Harbour, Darlinghurst, Darling Point and Woollahra. Hence from various parts of itself are enjoyed some of the most charming extensive views that can be obtained around Sydney.

For years all classes of buyers have wished to acquire a portion of it for a beautifully situated homestead that was then not obtainable. Now owing to the decease of the late venerable proprietor it is

IN THE MARKET FOR AUCTION SALE
on the above liberal terms.

- - - - -

Buyers may secure whatever they please. The site available for-
Mansions
First Class Villas
Genteel Cottages
Wellpaying Terraces

- - - - -

THE SPECULATOR AND INVESTOR MAY SAFELY BUY

- - - - -

GAS AND CITY WATER AVAILABLE

- - - - -

Inspection especially invited from Capitalist, Speculators, Investors, Builders and Trustees for Minors to the bona fides sale of

THIS EXCEPTIONALLY GRAND ESTATE

Where is there another such estate to subdivide and offer for sale?

REMEMBER THIS IS ALMOST LAST CHANCE

quite out of the city yet so handy to it, by a moderate walk via Darlinghurst or pleasant ride by tram via Oxford Street, Paddington from which latter is distant only about 4 minutes walk. Compare the price of only a few years ago with those realisable now for lands in:

GLENMORE ROAD

UNDERWOOD ESTATE, PADDINGTON

MOORE PARK COMMON LAND

WAVERLEY AND RANDWICK

and what has been the good fortune of the buyers of those days will eventuate to purchasers of

THE DUXFORD ESTATE

Where there is there another such estate to subdivide and offer for sale?

REMEMBER THIS IS ALMOST LAST CHANCE

Solicitors to the Estate are Messrs. W. Robbards & Son.,
Castlereagh Street.

Call for Lithograph and inspect. Title is grant to late Mr.
Gurner.

RICHARDSON & WRENCH
AUCTIONEERS.

(Estate Agent's advertisements have not changed very much in
the last 103 years, have they?)

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On the following Wednesday 4th March, 1886 an advertisement
appeared in the "Sydney Morning Herald" reading -
GILBERT'S FARM TOONGABBIE 150 ACRES CAPTAIN EDWARDS' GRANT
(BUT MARKED AS GURNER'S GRANT ON CUMBERLAND MAP)
PARISH OF CASTLE HILL HANDY TO WINDSOR ROAD ABOUT 3 MILES FROM
PARRAMATTA AND 7 MILES FROM SEVEN HILLS STATIONS

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No evidence of the sale of the 400 acres at Cabramatta could
be found, so this property could have been sold during Mr.
Gurner's lifetime.

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Following is the order in which the various estates in the
area were sold. You will note the last 7 blocks were sold in
1929, when Bates Avenue was formed.

Set out below is the order in which the estates were sold-

1875	Goodhope Estate	Goodhope Street, Glenmore
	Underwood Estate	Road
		Hargrave, Sutherland,
		Windsor, Paddington,
		Underwood Streets
1876	Underwood Estate	Underwood Street
1877	Deep Dene Estate	Glenmore Road, Goodhope
		Street, Glen, Stephen and
		Cooper Streets

1878	Olive Bank Estate	Ormond, Olive Streets
1885	Duxford Estate	Cambridge, Duxford, Broughton, Gurner Streets
1886	Underwood	Soudan Street
1891	Elfred Estate	Glenmore Road
1893	Lawson Estate	Stephen, Stephen Lane, Brown Street, Lawson Street
1898	Broughton Estate	Broughton, Duxford, Stafford, Union, Cascade Streets
1929	Rosa Estate (the last of the Deep Dene Estate)	7 blocks Bates Avenue