

## Alienation of an Alien Nation

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### ABSTRACT

*When the First Fleet arrived at Sydney Cove in 1788 to establish a penal colony in a completely strange and unknown land, the priority was to cultivate farmland to guarantee a regular food supply. The Eastern Farms (now Ryde) was one such area. Under the misguided belief that Australia was ungoverned, the new settlers claimed the land in the name of their own Crown (King George III of England). With this claimed ownership came the power to grant parcels of land from the Crown Estate, i.e. the alienation of Crown land. In the role of Governor, Arthur Phillip commenced the granting of land in 1790. The First Crown Grants in Ryde continued from 1790 until 1809. No further granting of land in Ryde occurred until 1882 and 1887 when the Crown subdivided and released part of the Field of Mars Common. This paper discusses and aims to answer the following questions: Just what was granted? How was the land in the grant described? Where was the grant situated? The first official grants of land on the mainland were issued to marines Archer, Colthred and six others in January 1792. Grants of Crown land were free up until 1831 and the final Crown land grant in New South Wales was in 1981 to the trustees of St Vincent's Hospital, Darlinghurst, in Sydney.*

**KEYWORDS:** *First grants, first marking, first maps, cadastral surveying, City of Ryde.*

### 1 INTRODUCTION

In keeping with the theme of this conference, Captain Cook (although he was not acting for himself) was probably our first pirate to plunder down under, claiming and naming Terra Australis as New South Wales in 1770 during a ceremony at Kurnell on Botany Bay. Arthur Phillip arrived in 1788 with a motley crew carrying orders to establish a penal colony. For the subsequent settlement to survive, a degree of self-sufficiency was required, so arable land was sought for agriculture. Governor Phillip was empowered by King George III (Figure 1) to issue free grants of Crown land in New South Wales in order to facilitate this agriculture.

These free grants of Crown land, to willing first settlers, amount to the first alienation of the Crown Estate, or do they? Alienation, as a term, means separation, severing of ties or estrangement (especially where attachment formerly existed). Where some Crown land was delineated, marked and set aside for a specific purpose or use for the colony, was this alienation? Does the creation of a surveyed or defined parcel of land constitute an alienation? One can think of Government House, the first farm at what is now the Sydney Botanical Gardens, the site of the Government Stores or Fort Denison.



Figure 1: Official painting of King George III.

At law, alienation is more specifically the transfer of property rights (ownership). There are four property rights when it comes to ownership:

- 1) Right of possession.
- 2) Right of control.
- 3) Right of exclusion.
- 4) Right of disposition.

Does the transfer of only some of these rights still constitute an alienation? Even if the ownership remains with one landholder? Consider a subdivision of, say, three new lots, each defined by survey in a plan. Three titles are created. One lot is sold off, two are retained. Have any of the two retained lots been alienated?

If a land parcel is granted by the Crown to a freeholder (alienation) and later that parcel is returned to the Crown's ownership, does that land become unalienated again within the Crown's unalienated estate? Does the parcel retain its dimensioned identity within the Crown's estate? If the parcel remains an entity with an identity, can it be released again in the same shape? Is squatting, which is the illegal taking (or pirating) of land, an alienation? Is adverse possession an example of alienation? This paper discusses some of these questions with the objective to better understand just what alienation is. A further topic, which is to be explored in a future paper, is the granting of land by Governor Macquarie in 1819 to two Aboriginal leaders in an act of reconciliation. Were these grants of land, back to the original custodians, an alienation? Are alienation of land and alienation of title two separate issues?

## 2 FIRST LAND GRANTS IN THE COLONY

The first Crown land grants in the new colony of New South Wales were signed off by Governor Arthur Phillip in 1792. The author's understanding is that the official seal for government documents did not arrive with the First Fleet, so had to be shipped in at a later date, by 1792.

The first grants bearing Governor Phillip's signature were actually 14 land grants on Norfolk Island (totalling 649 acres), together with 8 land grants on the mainland (totalling 690 acres). These were all dated 3 January 1792.

The first land grants on the mainland were given to a group of eight former marines, who decided to remain in the colony, after their term of office had expired, at Ryde and Ermington (in an area which came to be known as the Field of Mars) along the northern shore of the Parramatta River:

- John Colthred – 80 acres.
- Isaac Archer – 80 acres.
- John Carver – 80 acres.
- Thomas Cottrell – 80 acres.
- James Manning – 80 acres.
- Thomas Swinnerton – 80 acres.
- Alexander McDonald – 130 acres (either additional military recognition or family).
- Thomas Tynan – 80 acres.

Each of these grantees was given 80 acres (30 acres per man as decreed, plus 50 additional acres for being a military man). As was the manner of the day, the parcels adjoined, had parallel side boundaries and a rear boundary which was square. John Colthred's 80-acre grant was the easternmost, so it abutted unalienated Crown land. Within 2 years, John Colthred had married and become the father of a child, so he claimed a further land entitlement of 20 acres for his wife plus 10 acres for his child. In 1794, John Colthred was granted 30 acres at a location called Dinner Point, beyond a bay and over 500 m further to the east from his original grant (Figure 2).

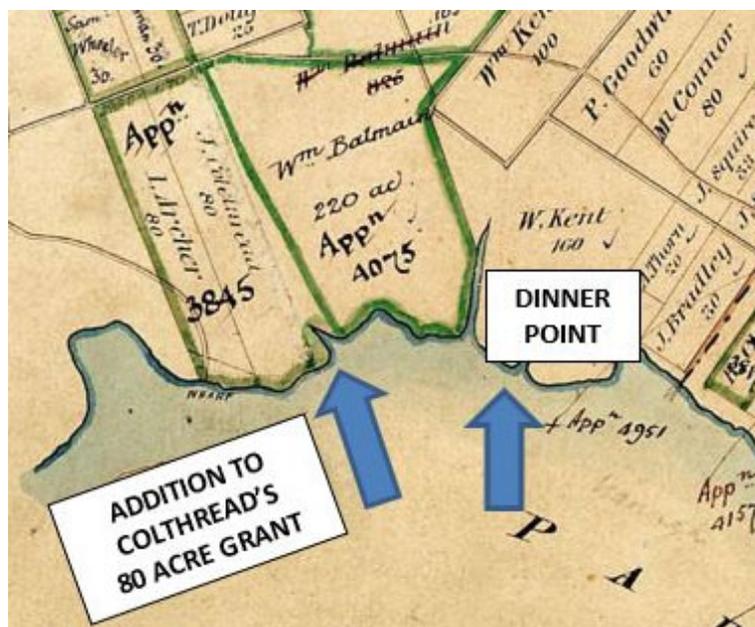


Figure 2: John Colthred's 80-acre grant in relation to Dinner Point.

This 30-acre grant at Dinner Point was not taken up by John Colthred and subsequently re-granted as part of a 160-acre parcel to William Kent in 1799. However, there remained 220 acres of unalienated Crown land between Colthred and Kent. All this Crown land was granted to William Balmain (Figure 3) in 1799, with the parcel description stating that the grant abutted John Colthred's land on the west.



Figure 3: Portrait of landowner William Balmain.

However, this abutting boundary now displayed a significant bend towards the east when compared to the other boundaries of the original eight grants. The obvious answer is that John Colthred took up his extra 30 acres from the unalienated Crown land abutting him on the east, and not at Dinner Point, further away. As an existing landowner in the district and a prominent figure in the colony, it is unlikely and improbable that William Balmain would be unaware of the location of the eastern side boundary of John Colthred's grant to which his subsequent 220-acre grant abutted.

On 22 February 1792, 7 weeks after these first grants in the Field of Mars, a further 52 grants were authorised, including one to James Ruse (Figure 4), at Parramatta. On a semi-official list of the land grants given by Governor Phillip, James Ruse is the first name mentioned, which probably explains why we were always taught in school that James Ruse held the first grant of land in New South Wales. Perhaps he did! James Ruse was a very interesting character (de Belin, 2020). He was a Cornish farmer who, in 1782, at the age of 23, was caught, tried and convicted for "*burgulariously breaking and entering the dwelling house of Thomas Olive about 1 in the night and stealing thereout 2 silver watches value 5 pounds and other goods value 10 shillings*". He avoided the death penalty by accepting transportation to Australia for a term of 7 years! He wallowed on a prison hulk in Plymouth (Figure 5) for 5 years before embarking on the 'Scarborough' with the First Fleet.

By July 1789, the end of the term of his 7-year sentence had been reached, although Governor Phillip lacked any documentary evidence that this was indeed the case. After several of James Ruse's pleas as to his term ending, Governor Phillip relented and permitted Ruse, in November 1789, to occupy and farm a 30-acre plot of land at Rose Hill, near Parramatta. James Ruse was after all a farmer. The plot of land was called "Experiment Farm". Governor Phillip was keen to have James Ruse succeed and be an example and inspiration for other emancipated ex-convicts who would be rewarded with land grants if they displayed the industry and determination for the hard work needed to farm and grow food for the colony. James Ruse was so successful that after 12 months he was self-sufficient and free of the need for supply from the Government Stores. Shortly thereafter, James Ruse's Experiment Farm was supplying hundreds of bushels of grain to the Government Stores.

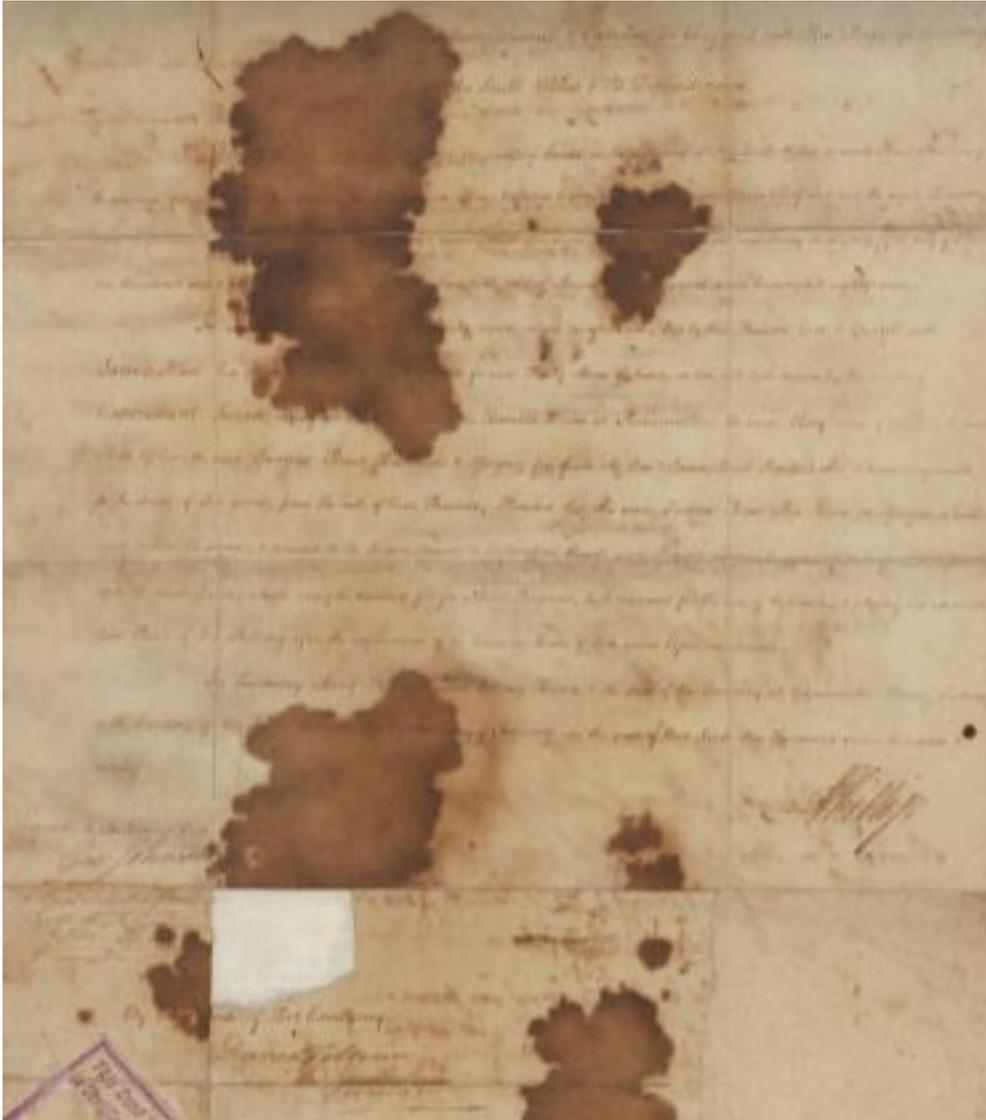


Figure 4: Image of grant by Arthur Phillip to James Ruse – 22 February 1790 (see Appendix A for transcription).

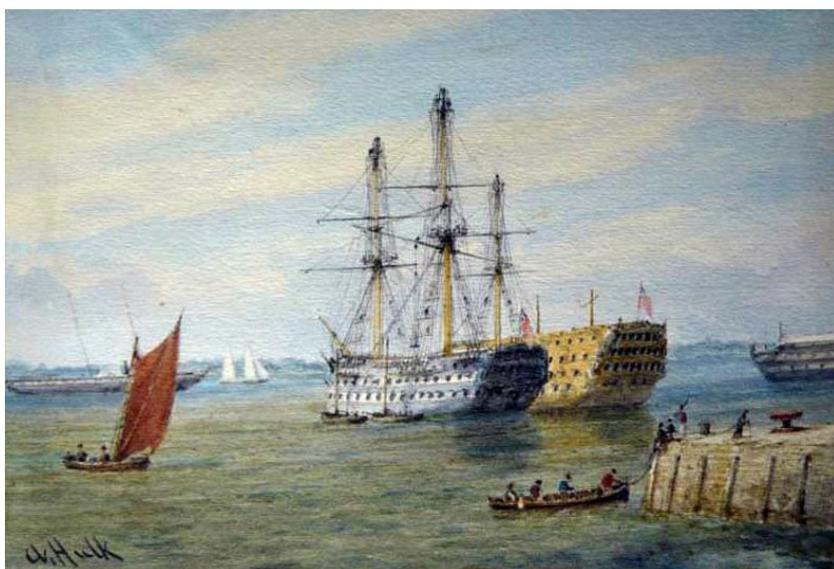


Figure 5: Painting showing de-masted prison hulks at Plymouth with a transport ship anchored beside.

Of interest in the James Ruse saga is that the date written on his actual land grant parchment is clearly 22 February 1790. There were 51 other grants signed off on 22 February 1792. So, was the grant to James Ruse deliberately backdated to 1790 in order to reflect the fact that he had indeed been occupying and cultivating the land since November 1789? This would be proof that James Ruse was the first ex-convict to receive a land grant. Written on the reverse side of Ruse's grant is the deed of conveyance of the title for "Experiment Farm" to Mr John Harris, for the sum of 40 pounds, in October 1793 (Figure 6). This is a fine example of an early chain of title directly linking back to the first grant. It could also be explained by a shortage of parchment in those early days. Also note the deterioration of the medium, the fading of the ink and the evidence of poor storage, with water damage causing ink runs; all features of early deeds and dealings which render them sometimes almost completely unreadable and indecipherable.

The first female to receive a Crown grant is listed as Eleanor Frazer, who gained ownership of 20 acres near Concord on 20 February 1794. As an aside, she was a First Fleeter whose son John was the second child born in the new colony.

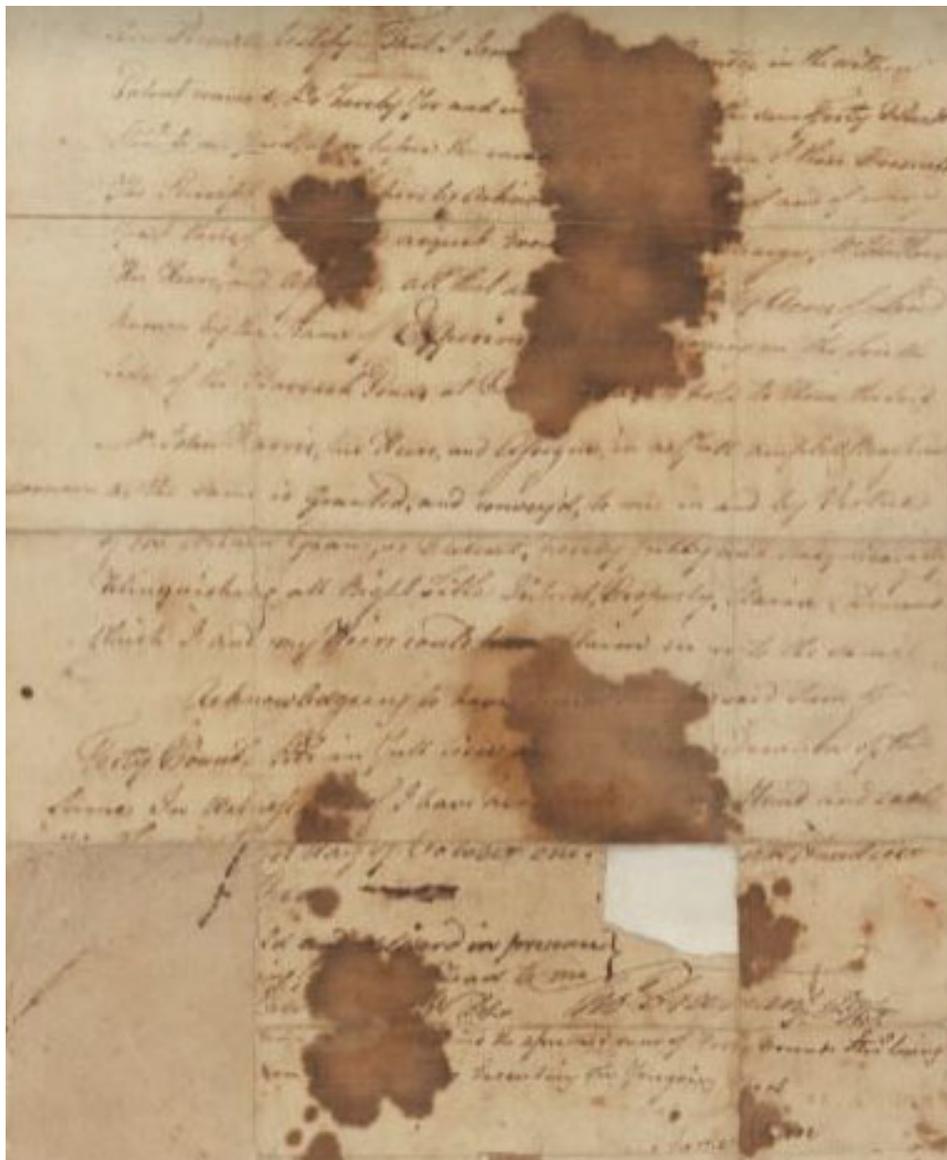


Figure 6: Reverse side of grant to James Ruse, showing first conveyance of his land to Mr John Harris – October 1793 (see Appendix B for transcription).

One of the first maps was produced in the colony in 1796, after a survey by Charles Grimes and Matthew Flinders. This map was reproduced and enhanced in 1798 (Figure 7).



Figure 7: Two early maps of the Sydney settlement – dated 1796 and 1798.

The heading on each map bears the following text:

*“The dotted lines show the ground walked over lately.*

● *Are places where the latitude has been observed.*

*Those places marked thus (green hatch) are the principal part of our cultivation.”*

These early maps show how the settlement has spread from the Parramatta River, then west to the Hawkesbury River and south towards the Camden area. These two maps obviously are derived from the same source material. Detail from the 1796 map shows the first grants at the Field of Mars and the Eastern Farms (Figure 8). Notice with the very first grants at Ryde that some run right from the shoreline, while others are set back from the shoreline.

There are two reasons for this. Firstly, the positioning enables proper rectangles of land to be created and granted. Secondly, this land between the shoreline and the first grants was then used to provide a wharf and a marshalling area, so farm produce could be sent downstream to market at Sydney Cove. This is another fine example of an undefined area of Crown land being used for a specific public purpose. Can this land be considered alienated from the Crown Estate because of its usage?



Figure 8: Detail showing first land grants (in green) along Port Jackson and the Parramatta River between Sydney Cove and Parramatta – from 1796 map.

### 3 THE WORDING OF THE FIRST GRANTS

Governor Arthur Phillip acted under strict and explicit instructions from King George III when it came to granting land in the new colony (Figure 9).

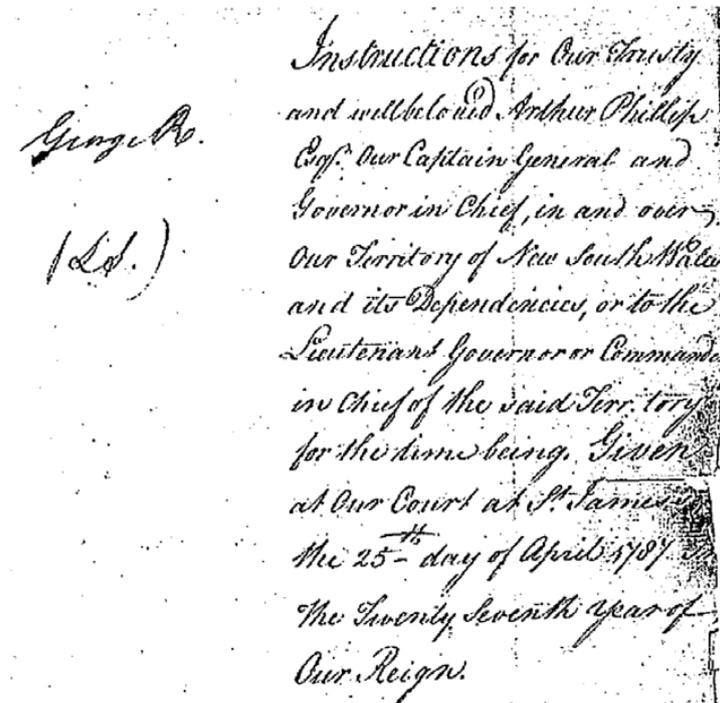


Figure 9: Detail from first page of King George III instructions to Arthur Phillip – 1787.

The following is a transcription of selected parts of the King's instructions describing the granting of land in the new colony:

“... given and granted upon you full power and authority to emancipate and discharge from their servitude, any of the convicts under your superintendence who shall, from their good conduct and a disposition to industry, be deserving of favor [sic]: It is our will and pleasure that in every such case you do issue your warrant to the Surveyor of Lands to make surveys of and mark out in lots such lands upon the said territory as may be necessary for their use; and when that shall be done, that you do pass grants thereof with all convenient speed to any of the said convicts so emancipated ... **free of all fees, taxes, quit rents, or other acknowledgements whatsoever, for the space of ten years: Provided that the person to whom the said land shall have been granted shall reside within the same and proceed to the cultivation and improvement thereof; reserving only to us such timber as may be growing, or to grow hereafter, upon the said land which may be fit for naval purposes, and an annual quit rent of [blank in manuscript] after the expiration of the term or time before mentioned ...** And whereas it is likely to happen that the convicts who may after their emancipation, in consequence of this instruction, be put in possession of lands will not have the means of proceedings to their cultivation without the public aid; It is our will and pleasure that you do cause every such person you may so emancipate to be supplied with such a quantity of provisions as may be sufficient for the subsistence of himself, and also of his family, for twelve months, together with an assortment of tools and utensils, and such a proportion of seed-grain, cattle, sheep, hogs, &c., as may be proper, and can be spared from the general stock of the settlement.”

The highlighted text is repeated, word for word, within the first grants issued by Governor Arthur Phillip (Figure 10).

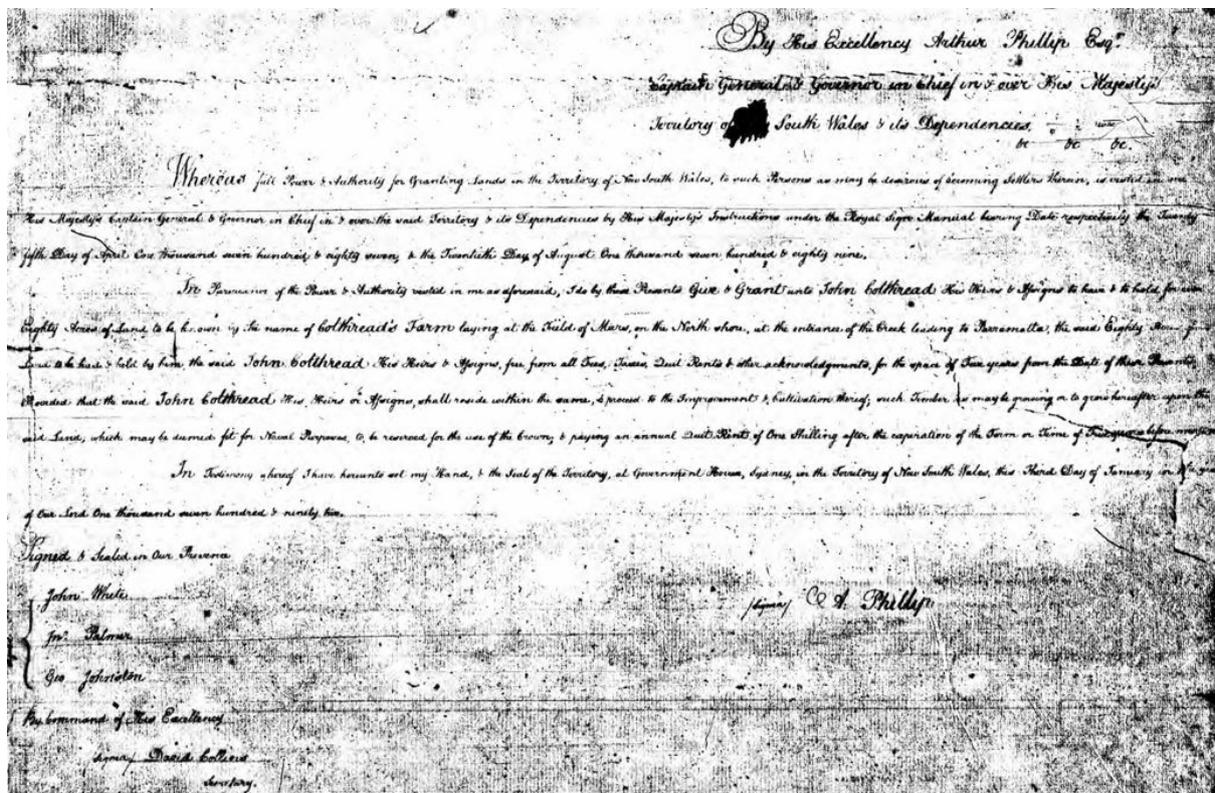


Figure 10: Image of Colthred's original 80-acre grant from Governor Arthur Phillip – 3 January 1792.

The following is a full transcription of the land grant to John Colthred, showing the typical wording of grants signed off by Arthur Phillip as Governor.

*“By His Excellency Arthur Phillip Esquire  
Captain General and Governor in Chief in and over His Majesty’s  
Territory of New South Wales and its Dependencies*

*Whereas Full Power and Authority for Granting Lands in the Territory of New South Wales to such persons as may be desirous of becoming settlers therein, is vested in His Majesty’s Captain General and Governor in Chief in and over the said Territory and its Dependencies by His Majesty’s Instructions under the Royal Sign Manual, bearing date respectively the Twenty Fifth day of April, one thousand seven hundred and Eighty Seven, and the Twentieth day of August, one thousand seven hundred and Eighty Nine.*

*In pursuance of the Power and Authority vested in me as aforesaid, I do by these Presents Give and Grant unto John Colthred his heirs and assigns to have and to hold for ever, Eighty acres of land to be known by the name of Colthred’s Farm, laying at the Field of Mars, on the North shore, at the entrance of the creek leading to Parramatta, the said Eighty acres of land to be had and held by him the said John Colthred his heirs and assigns **free from all fees, taxes, quit rents and other acknowledgements for the span of five years** from the date of these presents, **provided that** the said John Colthred his heirs and assigns, **shall reside within the same and proceed to the Improvements and Cultivation thereof, such Timber as may be growing or to grow hereafter upon the said land which may be deemed fit for Naval purposes, to be reserved for use of the Crown, and paying an Annual Quit Rent of one Shilling after the expiration of the term or time of five years before mentioned.***

*In testimony whereof I have hereunto set my Hand, and the Seal of the Territory, at Government House, Sydney, in the Territory of New South Wales, this Third day of January, in the year of our Lord One thousand Seven hundred and ninety two.*

*Signed and Sealed in our presence.*

*John Palmer*

*signed A Phillip.*

*George Johnston*

*John White*

*By command of His Excellency*

*Signed David Collins*

*Secretary.”*

The first crown grants (signed off by Governor Phillip) contained only information on parcel area, site location and an identity (generally the name of the owner, e.g. “Archer’s Farm”). No metes, no bounds! The grants were made to marines, soldiers, emancipated convicts and some free settlers. William Paterson, as the caretaker Governor upon the return of Arthur Phillip to England in 1793, maintained the wording used in the first Crown grants when he continued issuing grants from the Crown Estate.

When Francis Grose became caretaker Governor after William Patterson, he found it necessary to affix an additional paragraph to the wording of a first Crown grant. Without blaming James Ruse directly, he was certainly one of the culprits when it came to forcing this change in grant wording. The James Ruse conveyance to John Harris in 1793 (see Figure 6) effectively removes any obligation that the new landowner may have towards the Crown with regards to the payment of quit rent, fees and taxes. The new inserted paragraph states that any sale or conveyance of the land made before the end of any set term shall be void and the said lands will revert to the Crown. The following detail from the grant to Ann Thorne (19 November 1794) shows the added paragraph:

*“In pursuance of the Power and Authority vested in me as aforesaid, I do by these Presents Give and Grant unto Ann Thorne ...*

*... And it is hereby provided that the said Ann Thorne shall reside upon and cultivate the lands hereby granted for and during the term of five years from the date hereof provided the said Ann Thorne shall so long live and any sale or conveyance of the said land before the expiration of the said term of five years shall be void and the said lands shall in such case revert to his Majesty His Heirs and Successors ...*

*signed Francis Grose.”*

When Captain John Hunter undertook the role of Governor after Francis Grose, he modified the wording of the Crown grant still further to include abuttals in the land description (still no mention of measurements for bearing or distance though!). This is shown in the following detail of abuttals from the grant to William Balmain (3 August 1799):

*“**Bounded** on the South West side by an allotment granted to John Colthead,  
(bounded) on the South by the Flats ...  
(bounded) on the North East by a line running from the South West corner of Meriam Hill to the head of the salt water creek on the West side of Dinner Point and  
(bounded) by an allotment of one hundred and five acres granted to Mr Balmain and  
(bounded) on the North West by an allotment granted to Thomas Douglas ...”*

Not all grantees remained living on their parcel. Many grants were abandoned after a short time, and the subject land parcel was re-granted to a fresh settler in a next wave of enthusiasm for land ownership (Figure 11). In such a case, is the fresh grant, of the same 30-acre parcel, a second alienation of the same land? Where ownership has changed, as in the conveyance from Ruse to Harris, has an alienation occurred? Can a demarcation of Crown land for a special or specific purpose such as a road reservation, recreation reserve, drainage reservation or lease be considered an alienation?

Mr Surveyor John James Gallaway, in his survey (Crown Plan 1.1299) of the Field of Mars Common in 1847, demarcates and identifies 36 parcels of land being illegally occupied within the Common. As Gallaway notes (see Appendix C), some of these occupancies date back as far as 1802. Subsequently, Crown Plan 15.440 by Charles Scrivener in 1882, which is also a survey of the same Field of Mars Common, shows many of these occupancies still existing; now 70 years after 1802. Do illegal land grabs qualify as alienation? For major pirate activity with respect to land grabs, perhaps we should refer to the squatters in the outer districts and beyond the 19 counties (a topic not covered in this paper).

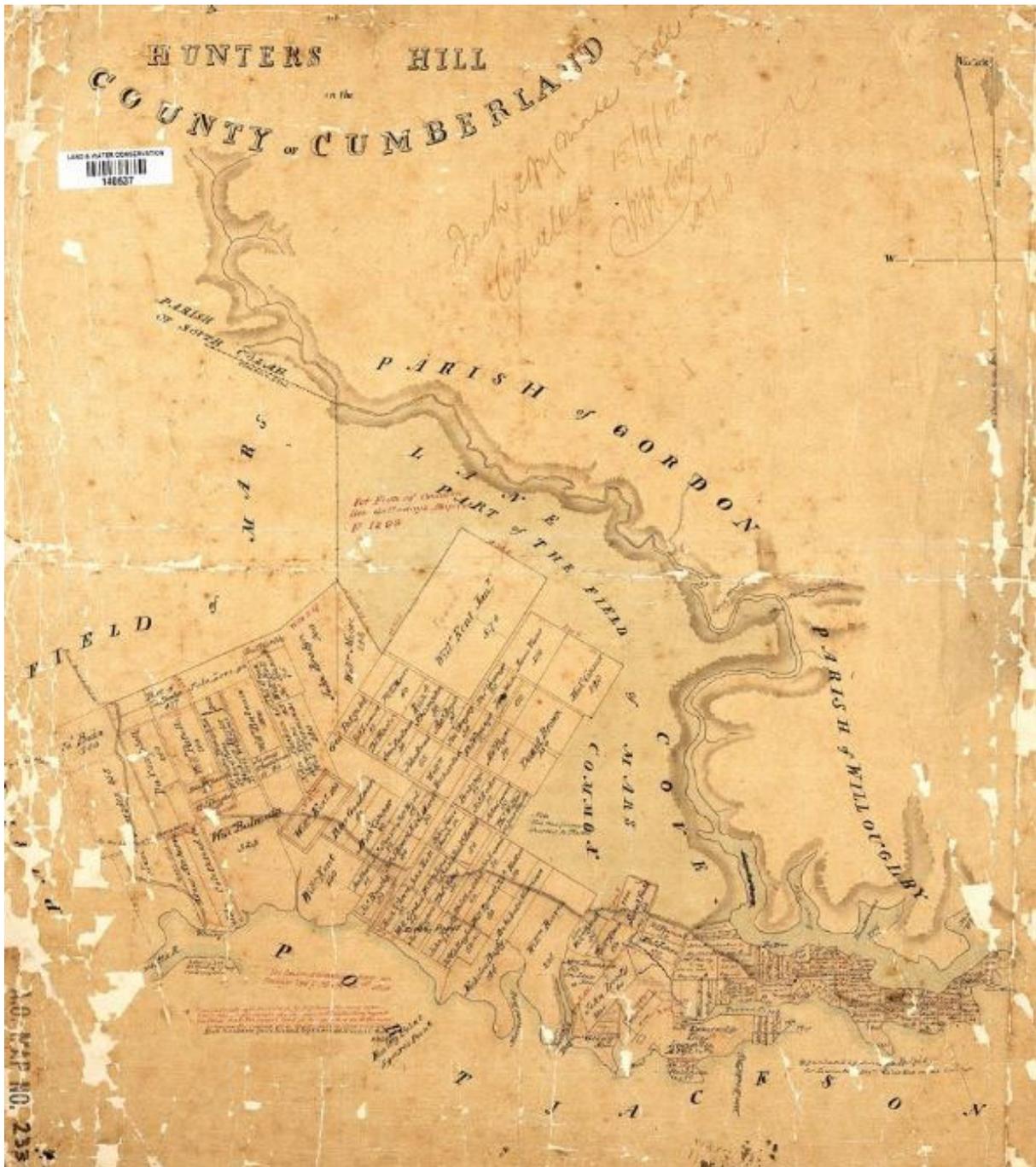


Figure 11: Parish of Hunters Hill, showing location of the first grants in Ryde from 1792 to 1809 – 1875 map.

#### 4 MEASURING AND MARKING THE FIRST GRANTS

How were the first grants measured and marked? It is most likely that the first surveying instruments available in the colony were the compass (circumferentor) and the Gunter's chain (Figures 12 & 13). The circumferentor had appeared in Germany in the early 1500s, whereas Gunter's chain was developed in 1620 by an English astronomer and mathematician named Edmund Gunter. Both surveying tools were used in tandem for 250 years and were certainly the instruments of choice by the early surveyors in New South Wales. However, these instruments had a few drawbacks which limited their accuracy. For example, the circumferentor did not tilt, so accurate observations on very sloping ground were very difficult.



Figure 12: Circumferentor.

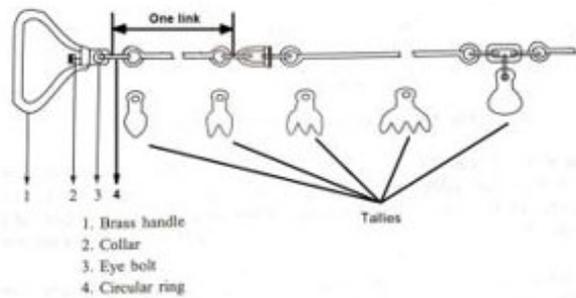


Figure 13: Gunter's chain, together with diagram showing the markings along the chain.

In 1812, John Oxley as Surveyor General, made a request for a common measuring wheel. Measuring wheels or perambulators (Figures 14 & 15) were certainly being used in India prior to 1800 as a relatively quick means of roughly checking a baseline calculation. John Meehan, in his 1818 exploration through the southern highlands and southern tablelands “measured with a perambulator”, as he wrote at the beginning of his field notes.



Figure 14: Wooden measuring wheel or perambulator, showing clocklike tally mechanism – early 1800s.



Figure 15: Metal measuring wheel or perambulator, showing distance tally mechanism – mid 1800s.

This metal measuring wheel from the Queensland Museum of Lands Mapping and Surveying has a diameter of  $25\frac{1}{4}$  inches, which results in a wheel circumference of 6.6 feet. Thus, ten revolutions of the wheel equals 66 feet or 1 chain! Similarly, if a measuring wheel has a diameter of 42 inches ( $3\frac{1}{2}$  feet), then the wheel circumference is 11 feet. Thus, six revolutions of the wheel equals 66 feet or 1 chain! This type of Measuring wheel was still being used for surveys in outback Queensland in the 1880s.

There was a dearth of land surveyors in the early years of first settlement. Some of the notable land surveyors in the early years of the colony included Charles Grimes, John Meehan, John Oxley, George Evans and John James Gallaway. The earliest available field notes were provided by Grimes from 1794, which include entries about using a compass, measurements being made in chains and describing the type of marking. There are constant references to starting at a known or established corner, although there are no indications of what marked that corner. How did the early surveyors mark parcel corners? As would probably be predicted, new corners were marked with a stake or a drilled hole in rock or a tree marked on four faces (Figure 16).

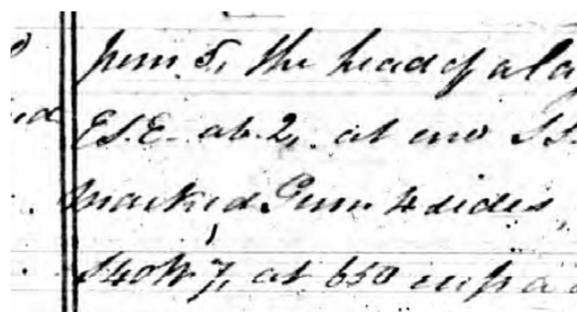


Figure 16: Line in Grimes' field notes, showing "marked Gum 4 sides" indicating a tree on corner – 1796.

During Meehan's expeditionary traverse in 1818 to locate and investigate a route from Camden to the Shoalhaven River, a tree was marked at the end of each day to indicate the start point for the first traverse leg of the next day. In 1838, 50 years after the arrival of the First Fleet, the town boundary of Parramatta was surveyed by John James Gallaway and marked with such diverse items as five stakes, a grey gum tree, a large dead stump on a hill, a post of a small bridge, another dead stump, then natural boundaries along a ridge and finally along a creek. So, tree marking was still considered an easy first option (Figure 17).

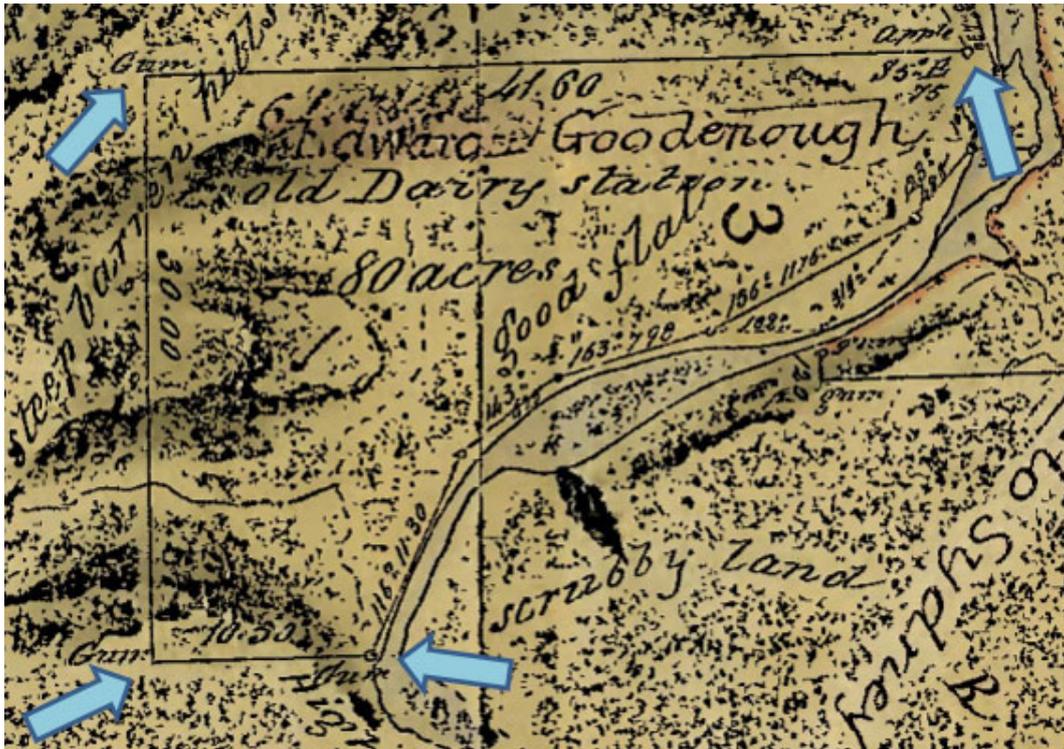


Figure 17: Plan of Portion 3, Parish of Nattery, County Argyle, showing trees marking each corner – 1855.

“Gum Stump”, “Large Oak Stump”, “Large Dead Tree” and “Stump” are all shown by Gallaway on Crown Plan 1.1299 as indicating old grant corners. Other notations on Gallaway’s plan include “Well marked line but not very straight” and “Line marked by some private surveyor in mistake”. My favourite notation is a description of an irregular parcel which is “girt in by rocks”, surely an apt Australian expression (see Appendix D).

The first recorded directions to all surveyors came from Surveyor General Mitchell in 1836, at a time when the Surveyor General’s Department consisted of 14 assistant surveyors. He stated “... that the marking and measuring of the portions of land applied for as purchases are conducted by some of the surveyors in a very loose, inaccurate and unsatisfactory manner ... – I have to point out to you that – altho’ even in the measurement of a grant (a gift from the Crown) such looseness could scarcely be tolerated.” Lands Department specifications for corner marking first appeared in 1848.

## 5 LAST GRANT IN NEW SOUTH WALES

The last Crown grant of land in New South Wales occurred in 1981, with Bruce Davies, the NSW Registrar General at the time, ceremoniously handing a title to the trustees of St Vincent’s Hospital in Darlinghurst, Sydney. The land parcel involved was sited in Barcom Street and already occupied by hospital buildings. Could this be a final recognition of a land grab and alienation? With this last grant and alienation came the realisation that any unalienated Crown land should revert to Native Title and be administered by various Aboriginal Land Councils. This process of identifying unalienated land and lodging a valid claim for the land is ongoing. Once again a question arises: Is the reversion of Crown land to Native Title an alienation? Or is it an atonement for an earlier wrongdoing and land theft?

## 6 CONCLUDING REMARKS

It is hoped that this paper has provided some food for thought in the quest to answer the posed questions relating to first grants and alienation. All who now reside in the City of Ryde live on land that was once the domain of a group of wandering Aborigines named the Wallumattagal (Smith, 2005). This group moved through their territory leaving very little evidence of their existence except for scattered rock carvings and shell middens and a concept of land ‘ownership’ incomprehensible to the British colonists who landed in 1788. This lack of understanding led to the new settlers believing that the land belonged to no one and was solely theirs to use. Thus, the British concept of land ownership came to the colony, in which individuals owned a designated parcel of land to provide for themselves, their family and community or society.

What became of the Aboriginal inhabitants who populated the Sydney and Parramatta area at the time of first European settlement and first alienation of their traditional lands? For the first 20 years, their presence was abundantly obvious with continuous contacts, reports of their comings and goings and exchanges. The Sydney Gazette regularly carried stories about prominent Aboriginal leaders and their welfare, with reference to internal fights, native justice and the native way of life. Government officers attempted to gather as much information as possible in respect to Aboriginal language, Aboriginal custom, culture, heritage and learning. Surveyors and explorers never set off into the unknown bushland without some Aborigines in accompaniment as guides and holders of bush knowledge. Prominent citizens recorded many contact anecdotes in their personal memoirs and diaries. By 1838, however, there is one poignant note in a written account by William Lawson, of Blue Mountains explorer fame: “... *with his tribe at Kissing Point which are all now – I believe nearly extinct...*”

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## APPENDIX A

Transcription of James Ruse land grant dated 22 February 1790 [1792]:

*“By His Excellency Arthur Phillip Esquire  
Captain General and Governor in Chief in and over His Majesty’s  
Territory of New South Wales and its Dependencies*

*Whereas Full Power and Authority for Granting Lands in the Territory of New South Wales to such persons as may be desirous of becoming settlers therein, is vested in me His Majesty’s Captain General and Governor in Chief in and over the said Territory and its Dependencies by His Majesty’s Instructions under the Royal Sign Manual, bearing date respectively the Twenty Fifth day of April, one thousand seven hundred and Eighty Seven, and the Twentieth day of August, one thousand seven hundred and Eighty Nine.*

*In pursuance of the Power and Authority vested in me as aforesaid, I do by these Presents Give and Grant unto James Ruse his heirs and assigns to have and to hold for ever, thirty acres of land in one lot to be known by the name of Experiment Farm, laying on the south side of the Barrack Ponds at Parramatta the said thirty acres of land to be had and held by him the said James Ruse his heirs and assigns **free from all fees, taxes, quit rents and other acknowledgements for the space of ten years** from the date of these presents, **provided that the said James Ruse his heirs or assigns, shall reside within the same and proceed to the Improvement and Cultivation thereof, such Timber as may be growing or to grow hereafter upon the said land which may be deemed fit for Naval purposes, to be reserved for use of the Crown, and paying an Annual Quit Rent of one Shilling after the expiration of the term or time of ten years before mentioned.***

*In testimony whereof I have hereunto set my Hand, and the Seal of the Territory, at Government House, Sydney, in the Territory of New South Wales, this twenty second day of February in the year of our Lord One thousand Seven hundred and ninety.  
Signed and Sealed in our presence.*

*James Palmer  
George Johnston  
John White*

*signed A Phillip.*

*By command of His Excellency  
Signed David Collins  
Secretary.”*

## APPENDIX B

Transcription of James Ruse conveyance to Mr John Harris in 1793, which was written on the reverse side of the James Ruse grant:

*These presents testify that I James Ruse the Grantee in the within Patent named, do hereby for and in consideration of the sum of Forty Pounds sterling to me paid, at or before the ensigning and delivery, of these presents The receipt whereof I hereby acknowledge [illegible] of and of every part thereof as hereby acquit [illegible] charge, Mr John Harris His Heirs, and Assigns, all that [illegible] thirty acres of land known by the name of Experiment Farm, laying on the south side of the Barrack Ponds at Parramatta, to hold to him the said Mr John Harris, His Heirs, and Assigns, in as full ample and beneficial as the same is granted, and conveyed, to me in and by Virtue of the within Grant, or Patent, hereby fully and unequivocally Relinquishing all Right Title Intrist [sic], Property Claim and Demand which I and my Heirs could Claim in or to the same Acknowledging to have received the aforesaid Sum of Forty Pounds sterling in full lieu [illegible] consideration of the same in witness wherof [sic] I have hereunto set my Hand and Seal this Twenty First day of October one thousand seven hundred and ninety three.*

*And delivered in presence*

*Read to me* *freeman*

*The aforesaid sum of forty pounds sterling being*

*Executing the foregoing deed*

*signed James Ruse.*

## APPENDIX C

Transcription of the table of reference to the encroachments on the Common, which appears on Crown Plan 1.1299 of 1847. This is virtually a census snapshot of 36 ‘illegal’ land occupiers within the Field of Mars Common. Figure 18 visualises the location of these encroachments.

No	Area	Name	Occupation	Remarks
1	0 3 0	T Small	--	Owner of Moore’s Grant.
2	1 2 0	Barnar Rouke	--	Owner of part of Kent’s 570 acres
3	3 3 0	Rev Mr Tarnar	--	Owner of Weaver’s Grant.
4	4 1 0	Mr Isaacs	--	Owner of (?) Grant.
5	1 3 20	P Dunn	13 years	Has a wife. He is employed cutting firewood.
6	0 2 15	James Blanchard	2 years	Supports a bedrid sister with three children.
7	0 0 4	Barney Kennedy	--	A erratic (?) who sometimes lives here in a hut under the rocks.
8	0 3 10	George Nelson	18 years	Married (?) Bell the widow of a former resident.
9	0 0 0	Joseph Tasker	--	A boatman? He only occupies a small hut.
10	2 3 20	William Martin	16 years	Has a wife and seven children; has a good garden.
11	0 1 30	William Adams	3 years	Has a wife and three children. Is an old surveyor’s man.
12	0 0 0	John the broom-maker	--	Only occupies a hut.
13	0 3 0	William Baker	19 years	Has a wife and seven children.
14	0 0 10	William Kitchen	2 years	Has a wife and one child.
15	1 2 0	John Bowen	35 years	Has a wife. A very old woman
16	0 0 0	Archibald Noble	9 years	A widower with one child, lives in a hut under the rocks.
17	0 0 10	George (?)	1 year	Has a wife and three children.
18	0 0 0	William Gordon	13 years	A boatman (?) merely a hut.
19	1 0 0	James Ward	? years	Has a wife. A very old couple.
20	(?) 3 20	David Rodde	9 years	Has a wife and two children.
21	(?) 2 30	Charles Re(?)	2 years	Has a wife and three children. An American black.
22	2 3 0	Antonio (?)	1 year	Has a wife and two children.
23	5 1 0	William Ma(?)	25 years	Has a wife and children grown up; has an excellent orchard.
24	2 3 0	Henry Haynes	23 years	Has a wife. Joseph Ferrara sold to him the good will of the place.
25	2 3 10	Thomas (?)	11 years	Has a wife. Has a good orchard.
26	4 0 0	John (?)	17 years	Got it from (?)ineger about 12 months since.
27	0 3 20	William Murray	7 years	Has a wife.
28	20 2 0	Captain Bennet	--	Owner of Harding’s Grant.
29	3 2 30	William Parsons	7 years	Has a wife and five children.
30	13 3 30	Thomas Small	--	Prop(rietor) of Kent’s 170 acres
31	35 0 0	James Devlin	--	Prop(rietor) of Kent’s 470 acres
32	4 2 0	(?) Small	9 months	Has a wife and six children.
33	1 2 20	Mary Martin	3 years	Is daughter of Black Randall; is now a widow with 12 children
34	0 3 20	Henry Cook	--	Leased part of Savage’s Grant
35	8 1 20	(?) Thomson	--	Propri(etor) of Pinkhams Grant
36	3 3 0	Mathew Gollard	2 years	Has a wife and seven children; There is a grave upon it.
138	1 19	Total		



Figure 18: Crown Plan 1.1299 showing locations of the encroaching occupations – 1847.

## APPENDIX D

Transcription of a note that appears on Crown Plan 1.1299 of 1847. James Gallaway was the surveyor of this plan, and he comments on discrepancies that he has found when comparing to earlier surveys, especially the variation in compass bearing (Figure 19).

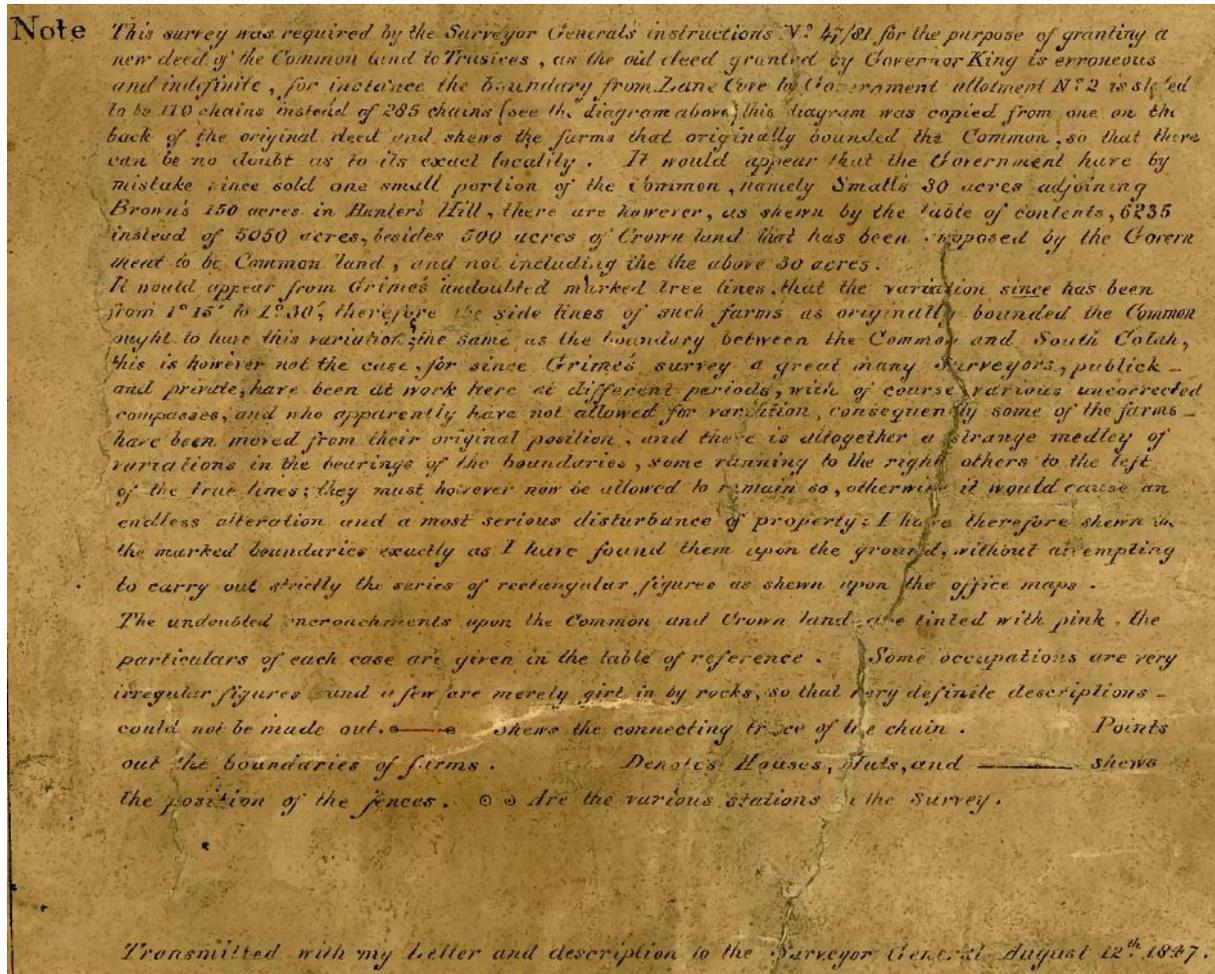


Figure 19: Notation on John James Gallaway survey Crown Plan 1.1299 – 1847.

“Note: This survey was required by the Surveyor General’s instructions No. 47/81 for the purpose of granting a new deed of the Common land to Trustees, as the old deed granted by Governor King is erroneous and indefinite, for instance the boundary from Lane Cove to Government allotment No. 2 is stated to be 110 chains instead of 285 chains (see the diagram above) this diagram was copied from one on the back of the original deed and shews the farms that originally bounded the Common, so that there can be no doubt as to its exact locality. It would appear that the Government have by mistake since sold one small portion of the Common, namely Small’s 30 acres adjoining Brown’s 150 acres in Hunter’s Hill, there are however, as shown by the table of contents, 6235 instead of 5050 acres, besides 500 acres of Crown land that has been supposed by the Government to be Common land, and not including the above 30 acres. It would appear from Grime’s undoubted marked tree lines that the variation since has been from 1 degree 15’ to 1 degree 30’, therefore the side lines of such farms as originally bounded the Common ought to have this variation, the same as the boundary between the Common and South Colah, this is however not the case, for since Grime’s survey a great many surveyors, publick [sic] and private, have been at work here at different periods,

*with of course various uncorrected compasses, and who apparently have not allowed for variation, consequently some of the farms have been moved from their original position, and there is altogether a strange medley of variations in the bearings of the boundaries, some running to the right others to the left of the true lines, they must however now be allowed to remain so, otherwise it would cause an endless alteration and a most serious disturbance of property; I have therefore shewn all the marked boundaries exactly as I have found them upon the ground, without attempting to carry out strictly the series of rectangular figures as shown upon the office maps. The undoubted encroachments upon the Common and Crown Land are tinted with pink, the particulars of each case are given in the table of reference. Some occupations are very irregular figures and a few are merely girt in by rocks, so that very definite descriptions could not be made out. (Line symbol) Shews the connecting trace of the chain. (Line symbol) Points out the boundaries of farms. (Symbol) Denotes houses, huts, and (Line symbol) shews the position of fences. (Dot symbols) Are the various stations in the survey.*

*Transmitted with my letter and description to the Surveyor General August 12<sup>th</sup> 1847.”*