

afterwards a report by him to the colonial secretary, in 1836. Both of these may be classed as official documents of the highest authority.\*

Judge Burton remarked, that "It was now his duty to discharge them (the jury) from any further attendance this session, but before he did so, he must make a few observations, which they ought to carry to their homes, and there give them a calm and serious consideration; his own mind was sufficiently impressed with their importance.

"It had been his lot to preside alternately with his brother judges in that court, he might say, for three years. It was a period at which he might himself well pause and inquire what he had been doing, what had been the effect of his labours, and especially, considering the numbers of capital convictions which had taken place before him, and the number of sentences passed, it was fitting that he should ask himself the question, what has been the effect of those sentences in the way of example?

"He felt they were equally interested in the same questions; he would therefore lay before them the views and conclusions at which his own mind had arrived. He had requested a return to be made out by the chief clerk of the court of all the capital convictions that had taken place during the last three years, and he thought when he stated the number of them, they would feel he was fully justified in the course of observations he was about to make.

"In 1833, there had been one hundred and thirty-five capital convictions, on which sixty-five sentences of death had been passed; forty-five of these capital convictions, and fifteen of these sentences of death, had taken place upon his judicial responsibility.

"In 1834, there were one hundred and forty-eight capital convictions, on eighty-three of which sentence of death had been passed; forty-eight of which convictions, and thirty-six of which sentences, had been before himself.

"In 1835, one hundred and sixteen capital convictions, and seventy-one sentences of death; fifty-six of which had taken place before him, and twenty-eight of which sentences he had passed. In addition to which, there are thirty-three prisoners who have been capitally convicted, waiting sentence, whether death might be recorded, or passed upon them. The number of capital convictions was a feature sufficiently striking in the administration of justice in the colony; for it was to be remarked, that capital punishment had been taken away from several offences, ever since the 1st of August, 1833,—such as forgery, cattle-stealing, stealing in a dwelling-house under the value of five pounds

\* See Appendix X. for tabular statements of crime in New South Wales.