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BRITISH COLONIAL DEVELOPMENTS 1774–1834

SELECT DOCUMENTS

BRITISH COLONIAL DEVELOPMENTS 1774–1834

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BY
VINCENT HARLOW
AND
FREDERICK MADDEN

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PREFACE

IN the history of British colonial developments the period between 1774 and 1834 is noteworthy as one in which old and new objectives strain and jostle against each other in the turbulence of swift waters. With the exploration of the Pacific in the age of Cook and the growth of industrial techniques an old ambition was revived, that is, to establish an empire of trading depôts in the Far East—in contradistinction to troublesome colonies in the West. Almost simultaneously an explosion occurred which shattered the North American Empire, and compelled politicians at home to adjust the imperial system to take account of an independent United States and an autonomous Ireland.

On the constitutional side the official policy was twofold: to reproduce the 'perfect equipoise' of the British constitution in the Canadian wilderness as an antidote to subversive republicanism, and to rule non-British dependencies by the benevolent dictatorship of an evolving Crown Colony system. At the end of our period the problem of internal colonial self-government, stimulated by a renewal of large-scale emigration, was just about to reappear over the rim of the horizon. With regard to the regulation of trade a modified form of the Old Colonial System was vigorously operated; but as merchants and manufacturers began to think with increasing confidence in global terms the tenets of Adam Smith began at long last to win more general acceptance, and the rigidities of imperial monopoly were gradually replaced by the principle of reciprocal concessions—the prelude to the experiment in free trade. These and other related trends were accentuated (and in some cases temporarily distorted) by the strain of the long struggle with revolutionary and Napoleonic France.

During this span of sixty years other changes took place which exerted a formative influence upon later imperial policy. The sustained campaign against the slave trade, the unavailing struggle to induce the planters to ameliorate slave conditions, followed by the imposition of slave emancipation by an imperial statute, marked the growth of a sense of responsibility for primitive peoples which immensely complicated relations with European settlers, particularly along weakly held frontiers, but also provided an enduring inspiration as Britain became increasingly an African power.

In compiling a collection of documents which would give as balanced a view as possible of this diverse range of experimentation overseas we have adopted certain principles of selection. In the first place we are concerned, not with the political and economic disputes

which occasioned the American Revolution, nor with the actual course of that imperial civil war, but with its repercussions upon subsequent British colonial policy.

Again, we have not considered it to be part of our task, nor would it have been practicable, to provide a documentary history, even in outline, of the internal affairs of the many colonial territories. These are brought into the picture only so far as they illustrate trends and problems impinging upon colonial policy in general.

A work which attempted a comprehensive documentation of the subject during the period under review would have run to excessive length. Our aim, therefore, has been to provide the student with original, and hitherto little used, material while omitting from the volume parliamentary speeches and statutes which, though essential to the subject, are readily accessible elsewhere. For the same reason we have not included documents which have been previously published in standard selections still in print, such as Professor W. P. M. Kennedy's *Statutes, Treaties and Documents of the Canadian Constitution, 1713–1929* (O.U.P., 1930). To this rule we have made two major exceptions, the texts of the Quebec Act of 1774, and of the Canada Constitutional Act of 1791. Without these it would not have been possible to indicate a consecutive and intelligible story.

The student who compares our transcripts with the originals will find that, where it appeared to be desirable, we have modernized the spelling and modified the punctuation in the interests of clarity. Documents printed in those more general collections which are now not easily available—as, for example, the *Records* of Cape Colony and of Australia—have as a rule been checked with the originals.

In the course of our work we have used certain valuable suggestions, arising from their own researches in two specialized fields, from Dr. C. B. Fergusson, Assistant Director of the Public Archives of Nova Scotia, and from Dr. Frances Armytage, formerly Lecturer in Modern History at Sheffield University. To these we offer our grateful acknowledgements. We are also indebted to officers of the Public Record Office, the British Museum, the India Library at the Commonwealth Relations Office, the West India Committee, and the Church Missionary Society, and above all—and individually—to the staff of Rhodes House Library, Oxford, who have suffered our demands with good humour and have gone out of their way to give us friendly assistance.

Finally, we wish to put on record our warm appreciation of the services rendered by Miss June Mercer, Research Assistant at the Institute of Colonial Studies, Oxford. Her efficiency, initiative, and cheerful patience have greatly eased an onerous task.

OXFORD
August 1952

V. T. H.
A. F. McC. M.

THESE documents should be read in conjunction with the following contemporary printed works: George Chalmers, *Opinions on Interesting Subjects of Public Law and Commercial Policy arising from American Independence*; Lord Sheffield, *Observations on the Commerce of the American States*; William Knox, *Extra-official State Papers*; Adam Smith, *Wealth of Nations*; Josiah Tucker, *The True Interest of Great Britain set forth in regard to the Colonies*; Wilmot Horton, *Exposition and Defence of Lord Bathurst's Administration . . .*; Henry Brougham, *An Inquiry into the Colonial Policy of the European Powers* (vol. i); Thomas Clarkson, *History of the Rise, Progress, and Accomplishment of the Abolition of the African Slave Trade*; and Gibbon Wakefield, *A Letter from Sydney*.

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I

BRITISH PENETRATION INTO THE INDIAN AND PACIFIC OCEANS

A

1

SECRET INSTRUCTIONS FOR CAPTAIN JAMES COOK'S THIRD VOYAGE, 6 July 1776[1]

WHEREAS the Earl of Sandwich has signified to us His Majesty's pleasure that an attempt should be made to find out a Northern Passage by sea from the Pacific to the Atlantic Ocean, and whereas we have in pursuance thereof caused His Majesty's sloops *Resolution* and *Discovery* to be fitted in all respects proper to proceed upon a voyage for the purpose above mentioned, and from the experience we have had of your abilities and good conduct in your late voyages, have thought fit to entrust you with the conduct of the present intended voyage, and with that view appointed you to command the first mentioned sloop, and directed Capt. Clerke, who commands the other, to follow your orders for his further proceedings; you are hereby required and directed to proceed with the said two sloops directly to the Cape of Good Hope, unless you shall judge it necessary to stop at Madeira, the Cape de Verd, or Canary Islands, to take in wine for the use of their companies, in which case you are at liberty to do so, taking care to remain there no longer than may be necessary for that purpose.

On your arrival at the Cape of Good Hope you are to refresh the sloops' companies, and to cause the sloops to be supplied with as much provisions and water as they can conveniently stow.

You are if possible to leave the Cape of Good Hope by the end of October, or the beginning of November next, and proceed to the southward in search of some islands said to have been lately seen by the French in the latitude of 48° 00′ south and about the meridian of Mauritius.[2] In case you find those islands you are to examine them

[1] Adm. 2/1332, pp. 284–96. Printed in *The Naval Miscellany*, vol. iii, pp. 357–63. Navy Records Society, vol. lxiii, Lond. 1928. *James Cook*, who had served in the Quebec campaign and had surveyed and charted St. Lawrence and Newfoundland waters, had been chosen to lead the scientific expedition of 1769–71. By that voyage and a second in 1772–5 he had already demolished the belief in Terra Australis Incognita. Now in this third voyage he was being sent to discover, if possible, a North West passage.

[2] In 1771 Yves-Joseph de Kerguelen-Trémarec had discovered a large island to the south of Mauritius which has since borne his name. 'The land,' he reported, 'which I have called South France is so situated as to command the route to India, the Moluccas, China and the South Seas . . .' (quoted by J. N. L. Baker, *A History*

thoroughly for a good harbour, and upon discovering one make the necessary observations to facilitate the finding it again, as a good port in that situation may hereafter prove very useful, although it should afford little or nothing more than shelter, wood and water. You are not however to spend too much time in looking out for those islands, or in the examination of them if found, but proceed to Otaheite or the Society Isles (touching at New Zealand in your way thither if you should judge it necessary and convenient) and taking care to arrive there time enough to admit of your giving the sloops' companies the refreshment they may stand in need of before you prosecute the farther object of these instructions.

Upon your arrival at Otaheite, or the Society Isles, you are to land Omiah[1] at such of them as he may choose and to leave him there.

You are to distribute among the Chiefs of those islands such part of the presents with which you have been supplied as you shall judge proper, reserving the remainder to distribute among the natives of the countries you may discover in the Northern Hemisphere; and having refreshed the people belonging to the sloops under your command, and taken on board such wood and water as they may respectively stand in need of, you are to leave those islands in the beginning of February, or sooner if you shall judge it necessary and then proceed in as direct a course as you can to the coast of New Albion,[2] endeavouring to fall in with it in the latitude of 45° 00′ north; and taking care in your way thither not to lose any time in search of new lands, or to stop at any you may fall in with unless you find it necessary to recruit your wood and water.

You are also, in your way thither, strictly enjoined not to touch upon any part of the Spanish Dominions on the Western Continent of America, unless driven thither by some unavoidable accident, in which case you are to stay no longer there than shall be absolutely necessary, and to be very careful not to give any umbrage or offence to any of the inhabitants or subjects of His Catholic Majesty. And if in your farther progress to the northward, as hereafter directed, you find any subjects of any European prince or state upon any part of the coast you may think proper to visit, you are not to disturb them or give them any just cause of offence, but on the contrary to treat them with civility and friendship.

Upon your arrival on the coast of New Albion you are to put into the first convenient port to recruit your wood and water and procure refreshments, and then to proceed northward along the coast as far as

of Geographical Discovery and Exploration, Lond. 1931, p. 165). In the same year Marion-Dufresne in a voyage from Mauritius had discovered Marion Island and the Crozet Islands to the southward.

[1] A native whom Captain Furneaux of the *Adventure* had brought away on the previous voyage.

[2] Drake's name for the territory annexed by him on the west coast of North America.

the latitude of 65°, or farther, if you are not obstructed by lands or ice, taking care not to lose any time in exploring rivers or inlets, or upon any other account, until you get into the before-mentioned latitude of 65°, where we could wish you to arrive in the month of June next. When you get that length you are very carefully to search for and to explore such rivers or inlets as may appear to be of a considerable extent and pointing towards Hudson's or Baffin's Bays; and, if, from your own observations, or from any information you may receive from the natives (who, there is reason to believe, are the same race of people and speak the same language, of which you are furnished with a vocabulary, as the Esquimaux) there shall appear to be a certainty, or even a probability, of a water passage into the aforementioned bays, or either of them, you are, in such case, to use your utmost endeavours to pass through with one or both of the sloops, unless you shall be of opinion that the passage may be effected with more certainty, or with greater probability by smaller vessels, in which case you are to set up the frames of one or both the small vessels with which you are provided, and, when they are put together, and are properly fitted, stored and victualled, you are to dispatch one or both of them under the care of proper Officers, with a sufficient number of Petty Officers, men and boats, in order to attempt the said passage; with such instructions for their rejoining you, if they should fail, or for their farther proceedings if they should succeed in the attempt, as you shall judge most proper. But nevertheless if you shall find it more eligible to pursue any other measures than those above pointed out, in order to make a discovery of the before-mentioned passage (if any such there be) you are at liberty, and we leave it to your discretion, to pursue such measures accordingly.

In case you shall be satisfied that there is no passage through to the above-mentioned bays sufficient for the purposes of navigation you are, at the proper season of the year, to repair to the Port of St. Peter and St. Paul in Kamtschatka, or wherever else you shall judge more proper in order to refresh your people and pass the winter; and in the spring of the ensuing year, 1778, to proceed from thence to the northward as far as, in your prudence, you may think proper in further search of a North East, or North West Passage, from the Pacific Ocean into the Atlantic Ocean, or the North Sea. And if, from your own observations or any information you may receive, there shall appear to be a probability of such a passage you are to proceed as above directed, and, having discovered such passage, or failed in the attempt, make the best of your way back to England by such route as you may think best for the improvement of geography and navigation, repairing to Spithead with both sloops, where they are to remain till further orders. . . .

[Wherever he makes a landfall, he is to make detailed observations of everything that may be useful to navigation or commerce—the nature of the soil, the quality of the mineral resources, and the character of the inhabitants.]

You are also with the consent of the natives to take possession in the name of the King of Great Britain of convenient situations in such countries as you may discover, that have not already been discovered or visited by any other European power, and to distribute among the inhabitants such things as will remain as traces and testimonies of your having been there.[1] But if you find the countries so discovered are uninhabited you are to take possession of them for His Majesty by setting up proper marks and inscriptions as first discoverers and possessors.

But for as much as in undertakings of this nature several emergencies may arise not to be foreseen, and therefore not particularly to be provided for by instructions beforehand, you are, in all such cases, to proceed as you shall judge most advantageous to the service on which you are employed.

You are by all opportunities to send to our Secretary, for our information, accounts of your proceedings and copies of the surveys and drawings you shall have made; and upon your arrival in England you are immediately to repair to this office in order to lay before us a full account of your proceedings in the whole course of your voyage, taking care before you leave the sloop to demand from the Officers and Petty Officers the Log Books and Journals they may have kept, and to seal them up for our inspection, and enjoining them and the whole crew not to divulge where they have been until they shall have permission so to do. And you are to direct Capt. Clerke to do the same with respect to the Officers, Petty Officers and crew of the *Discovery*....

Given, etc., the 6th day of July, 1776.

SANDWICH.
C. SPENCER.
H. PALLISER.

By command of their Lordships.
Php. Stephens.[2]

Sent the same day to him at Plymouth by Butler the Messenger at ¼ before 5 o'clock P.M.

2

THE CHAIRMAN AND DEPUTY CHAIRMAN OF THE EAST INDIA COMPANY TO LORD HILLSBOROUGH

25 October 1781[3]

[East India House, Leadenhall Street.]

MY LORD,

In obedience to your Lordship's commands, signified to the Chairman the 18th instant, desiring to be informed when His Majesty's and

[1] The *Resolution* carried so many animals that Cook remarked that it was like a Noah's Ark, lacking only 'a few females of our own species'.

[2] *Philip Stephens* was Secretary of the Admiralty from 1763 to 1795.

[3] Home Miscellaneous Series, 154/6, pp. 277 ff. India Office Library: C.R.O.

the Company's ships and troops will be ready to sail for the East Indies, we beg leave to acquaint your Lordship that the Company's ships will be ready to leave England the last day of November.

Having duly considered your Lordship's question to the Chairman 'Supposing Government to adopt the plan suggested for attacking the Cape of Good Hope, and fortunately the place shall be reduced, how is it to be defended against such force as must be expected to attack it from Mauritius and perhaps from Batavia?' And your Lordship's observation, That as our fleets must leave the Cape and proceed to India, it is not probable possession can be maintained, even if the place shall be taken by our troops; we humbly beg leave to observe that, if the Cape be taken, there can be no doubt but the inhabitants, if they do not join us, will at least be happy in remaining neuter, as the Dutch Government are known to rule with extreme rigour. But we do by no means rest the defence of the Cape upon any part to be taken by the inhabitants. We humbly conceive that a garrison of three thousand men will be fully sufficient to keep possession of the Cape, and we can and will strengthen it by any number of disciplined Sepoys from India, which shall be done, if required, in four months from the day of capture. In the meantime His Majesty's ships will be able to trace and follow the enemy. If they be at Mauritius the British fleet will remain at the Cape, of which Sir Edward Hughes must have proper information, that suitable measures may be pursued in India. If the enemy be in India, we can proceed thither by the inner or outer passage, according to the season of the year, to either coast or to the different straits leading to and from China, where certain intelligence may be had of the enemy's situation. It cannot indeed be doubted but the King's Admiral will always take measures to obtain information of the movements of the enemy, by stationing cruisers in such rendezvous as the monsoons point out, and as will enable him to protect the Cape from any force that may be sent against it from India; and the Cape being a place of consequence and resource, and of such importance to the preservation and welfare of India, must certainly become the general rendezvous. It is true there are no docks for cleaning ships, but all other repairs can be done there as well as in India; and as ships in India are now in general sheathed with copper, they will not want the convenience of Bombay harbour, as heretofore, where they often are, and must be, shut up for a considerable time, to the great detriment of the service.

But the question, my Lord, is not simply whether we shall attempt the Cape of Good Hope for the sake of conquest, or merely to distress the enemy; it involves another of the utmost consequence, namely,

The *Earl of Hillsborough*, who was strongly opposed to conciliation with the American Colonies, was at the time Secretary of State for the Northern Department. He had had experience between 1768 and 1772 as Secretary of State for the Colonies and as President of the Board of Trade.

whether, by leaving an enemy in possession of the Cape, we shall submit to lose the Island of St. Helena; be deprived of every place of refreshment and supply for the King's and Company's homeward-bound ships; or continue liable to all those dangers which may justly be expected to our shipping from an active and enterprising enemy so near that Island; and the extreme danger they must ever be in, whilst such enemy holds the Cape of Good Hope, is so evident that the smallest attention to the route to and from India must demonstrate the proposition and render the consideration truly alarming. We know the attack of the Island has been in contemplation, and if an enemy had arrived there in time it must have been fatal to the Company's eighteen ships and perhaps to His Majesty's ships which are now so happily arrived in safety.

That the power possessing the Cape of Good Hope has the key to and from the East Indies, appears to us self-evident and unquestionable. Indeed we must consider the Cape of Good Hope as the Gibraltar of India. This circumstance, my Lord, has not been felt during the long peace subsisting between Great Britain and the States General; but the present rupture with the Dutch has totally changed the scene, and rendered the possession of the Cape of the last importance. No fleet can possibly sail to or return from India without touching at some proper place for refreshment, and, in time of war, it must be equally necessary for protection. The places about the midway are the Cape of Good Hope, Madagascar and St. Helena. Refreshment at Madagascar is uncertain and dangerous from storms, climate and the disposition of the natives. The French obtain from thence with the greatest difficulty very scanty supplies although the situation of their own islands is near and consequently favourable for their purpose. They have made several unsuccessful attempts to settle at Madagascar, but the climate and treachery of the inhabitants have rendered their utmost endeavours abortive; and Madagascar, on that account, has proved the grave of thousands. The Island of St. Helena, even in time of peace, has scarcely been able to accommodate the Company's ships. During times of war with France that island has been constantly assisted from the Cape. This resource being utterly cut off, the future consequences must be so serious that we crave leave to offer it as our clear opinion, that not only the Company's possessions in India, but also the immense trade between Britain and that part of the world will be hazarded and in extreme danger, if the Dutch and French are permitted to hold possession of the Cape of Good Hope. And it is our further opinion, and however prematurely offered, we most humbly hope your Lordship will have the goodness to pardon us, if, in the warmth of our zeal for the interest of the East India Company and for the prosperity of the nation, we presume to suggest that in case of success against the Cape of Good Hope, this great national object cannot be so secured as to prevent further incon-

venience and danger, if ever the Dutch are again permitted to hold exclusive possession of a place so important to our possessions in the East, to our commercial concerns in general, and consequently to the welfare of Great Britain. There is room sufficient for both nations at the Cape of Good Hope. The present crisis demonstrates to us the necessity of the East India Company being permitted to have a permanent establishment there, sufficient to enable us at all times to supply our ships and those of His Majesty with all necessary refreshment, and also in time of war to afford them the most ample protection. . . .

We have the honour to be with the most perfect consideration, my Lord, your Lordship's most obedient and faithful humble servants.

LOU. SULIVAN.
WM. JAMES.

3

GERARD DE RAYNEVAL TO THE COMTE DE VERGENNES, 4 December 1782[1]

[Rayneval has been informed by Grantham that preliminary articles of peace with the Americans were signed on 30th November, but that the Dutch were proving very unreasonable, demanding complete liberty to trade with belligerents in accordance with the terms of the Armed Neutrality, the restitution of all conquered territories, and compensation for the seizure of Dutch ships and cargoes.]

. . . Le premier Article ne sera pas accordé; mais je présume que l'on proposera aux Hollandais des arrangements conséquents aux principes généraux annoncés dans la harangue du Roi.

Quant aux restitutions on est disposé à les faire à l'exception de Trinquémalé [Trincomali], et l'on refusera toute espèce de dédommagement par rapport aux prises.

Je n'ai dissimulé ni à Milord Grantham ni à Milord Shelburne que l'Article de Trinquémalé sera une pierre d'achoppement, et que s'il fallait quelque chose à l'avidité insatiable de la compagnie anglaise, il conviendrait du moins de choisir un objet moins jaloux que Trinquémalé, lequel rendrait l'Angleterre l'arbitre de toute l'Inde, et qu'il était du devoir du Roi d'insister sur cet article, parcequ'il lui était impossible d'abandonner les Hollandais à la merci de la Grande Bretagne. . . . Je n'ai pu démêler si la prétention sur Trinquémalé est péremptoire ou non. . . .

[1] Archives des Affaires Etrangères: Correspondance Politique, Angleterre, vol. 539, f. 155. *Gérard de Rayneval*, secretary to the Council of State and head of a department in the French Ministry for Foreign Affairs, had been used earlier by Vergennes as an intermediary with the American colonists. He had been sent on two previous special missions to London in September and November the same year, and now in December was back again, the French being very optimistic that a peace would be signed.

Charles Gravier, *Comte de Vergennes*, was Foreign Minister to Louis XVI and had been largely responsible for French intervention in the American War of Independence, anxious (as he was) to reverse the Treaty of Paris 1763. He was as strong an advocate as Shelburne of complete reciprocity in trade.

4

LORD GRANTHAM TO ALLEYNE FITZHERBERT
18 December 1782[1]

St. James's.

[Grantham sets out the terms, which the Cabinet has approved, to be offered to the Dutch plenipotentiaries.]

. . . Our situation in India certainly renders the Port of Trincomalé not only desirable, but almost necessary to us. . . . The Dutch have hitherto kept themselves masters of the navigation of the Eastern Seas. With what consistency can they in one instance claim a free trade, and in another pretend to keep an exclusive one? It will therefore be necessary that the liberty of navigating those Seas should be asked for, and granted, more especially if they are allowed any privileges in carrying on their neutral trade, and in this I conceive we should be supported by France.

We are uninformed of the intentions of France respecting the Cape, and I am sure it would be highly impolitic, under that uncertainty, to part with Trincomalé, which we have in our hands. . . .

5

THE COMTE DE VERGENNES TO GERARD DE RAYNEVAL, 3 January 1783[2]

[Everything, writes Vergennes, leads him to hope that a peace settlement is approaching; but since the pacification should comprise all the belligerents, he is afraid that the Anglo-Dutch negotiation may hold up the French treaty. The Dutch are being obdurate, and Fitzherbert responds by being severe. After commenting on the Dutch attitude respecting the vexed question of neutral rights, Vergennes goes on to discuss the British claim to Trincomali.]

. . . Les Hollandais, qui ne vont qu'au solide, et ne calculent leurs intérêts qu'en raison du produit pécuniaire, ne verraient les Anglais à Trinquémalé que comme des voisins qui bientôt partageraient et finiraient par s'emparer du commerce de la cannelle [cinnamon]. Ce n'est pas sous ce point de vue que nous considérons cette possession, car il nous serait assez indifférent de quelle main nous achèterions la cannelle; mais ce qui ne l'est pas est que les Anglais, déjà maîtres de la Base du Grand Triangle par l'Isle de Bombay et par les Bouches du Gange, se rendent maîtres de Trinquémalé, qui en est la tête. Il n'y aurait plus de navigation libre sur les deux côtes, qu'autant que

[1] F.O. 27/2, ff. 973–4. *Lord Grantham* had been ambassador at Madrid from 1771 to 1779 and first Commissioner of Trade and Plantations from 1780 to 1782. He was now Secretary of State for the Foreign Department in Lord Shelburne's administration. *Alleyne Fitzherbert* had been minister at Brussels since 1777 and in August 1782 was sent by Shelburne as special plenipotentiary to Paris for the negotiation of peace with France, Spain, and the Netherlands.

[2] Arch. des Aff. Etr., Corresp. Polit., Angleterre, vol. 540, f. 51.

l'Angleterre voudrait le permettre ou le tolérer. Cette Puissance, déjà si formidable en Asie, ne doit pas faire partager à l'Europe l'inquiétude que son pouvoir cause déjà dans cette première région. Je vous ai mandé, Monsieur, que j'avais dit à Monsieur Fitzherbert, que j'étais porteur des pleins-pouvoirs des Puissances de l'Europe pour réclamer contre la rétention de Trinquémalé. Ce n'était qu'une plaisanterie; mais la chose ayant transpiré depuis, j'ai eu des recommandations et des sollicitations de ne pas négliger cet objet si principal. . . .[1]

6

ALLEYNE FITZHERBERT TO LORD GRANTHAM

5 January 1783[2]

Paris.

. . . In all my late conferences with Monsieur de Vergennes we have never failed to have much discourse upon the whole of this Dutch business, from which I have reason to believe that he has not altogether approved of the stiffness of the Plenipotentiaries in insisting upon the immediate adoption on the part of England of the principles of the Neutral League, and that he is as little disposed to support them at all risks in their pretensions to a compensation for losses. But in regard to Trincomalé he continues to hold the same language as before with regard to their being indispensably obliged to insist upon the restitution of that possession, and to the no less powerful obligations which France lies under to support them in their claim.

I mentioned to your Lordship in a former letter that this last mentioned Power, as well as several other of the Powers of Europe which trade to the East, affected to dread our retaining possession of that port under the notion that we should by means of it have their trade to China, as well as to the Continent of India, entirely at our mercy. But the reluctance of the Dutch to give it up is founded upon another motive, viz., the apprehension that the footing it would give us in Ceylon, and the connections which we might form in consequence thereof with the King of Candy, might prove in the end fatal to their establishments and commerce in that Island. . . .

[At their last interview Vergennes had suggested as a possible means of settlement that Britain might retain some other territory captured from the Dutch, 'meaning I suppose Negapatnam', instead of Trincomali.]

As a farther inducement to this, he hinted likewise that the Dutch might perhaps, upon that consideration, be induced to settle the remainder of their treaty conformably to the ideas of England. But I did not think myself authorized to seem to listen to this overture,

[1] Vergennes was under strong pressure from Castries, the French Minister of Marine, to prevent the British from securing a naval station in Ceylon.

[2] F.O. 27/5, ff. 311–16.

telling Monsieur de Vergennes that we did not desire to retain the said port either as a consideration for the expenses of the war, or as a trophy of the advantages which we had gained in the course of it over the Dutch Republic, but that we wished to keep it from a much more solid motive, namely, the advantage of its situation, which rendered it not only useful, but in some sort necessary to the security of our possessions in India. . . .

7

LORD SHELBURNE TO ALLEYNE FITZHERBERT

9 January 1783[1]

. . . Advantage however has been taken of the summer campaign. Gibraltar has resisted the attack of the combined Forces, and our Fleet has returned home entire and certainly not dishonoured. Not only this, but we have signed with North America Articles which must end, if the war continues, with their neutrality at the least. Our pretensions however remain the same as they stood in September, without an allusion to any further demand except in the case of Dominica, which ought to have been balanced by the candour we shewed in the Articles I have mentioned, but [which] must be considered as bought at a most usurious rate by the double price we have been made to pay for it. I did all this with a view to obtaining Trincomalé, which stands, as you know, uncontradicted in the Note Confidentielle,[2] and which from the very first conversation I have ever had with Monsieur de Rayneval to this very last, I have always insisted upon as a point which we had most at heart. As he never negatived it, but always stated the French connection with Holland as slight compared to that

[1] B.M. Add. MSS. 42390, ff. 270–2. This letter is marked 'Most secret'.

William Petty, *Lord Shelburne*, had been President of the Board of Trade under Grenville in 1763, had opposed both the Stamp Act and the Declaratory Act, and had been appointed Secretary of State for the Southern Department under Pitt in 1766–8 with control of the Board of Trade and all colonial affairs. He had striven to conciliate the American colonists and to remove grievances; but his policy was not supported by many of his colleagues. In 1768, when the Earl of Hillsborough was appointed a third Secretary of State, Shelburne was relieved of his charge of the colonies and two years later he resigned with Chatham. Throughout the next decade he had been in opposition, urging conciliation and intervening with authority in debates on colonial and East Indian affairs, and calling attention to the grievances of Ireland. In 1782 he became Secretary of State for the Home Department under Rockingham and after his death formed his own administration, replacing Fox's envoy in Paris, Thomas Grenville, by Fitzherbert and Oswald. He firmly resisted the surrender of Gibraltar in spite of the King's desire to get rid of it. Shelburne, however, resigned in face of the Fox–North coalition and his own belief that the King was playing a double game.

The greater part of the collection of Shelburne MSS. is now in the W. L. Clements Library, University of Michigan, Ann Arbor, U.S.A. This and other papers from the collection are printed in the present volume from verbatim transcripts (Stevens MSS.) covering the years 1763–83 in Add. MSS. 42257 to 42496 in the British Museum.

[2] This had been presented by Rayneval.

with Spain and to require rather decency than cordiality, I cannot help flattering myself that you will certainly find it practicable, especially with the means which Lord Grantham has furnished you....

8

LORD GRANTHAM TO ALLEYNE FITZHERBERT

9 January 1783[1]

St. James's.

SIR,

It is impossible to judge whether France is determined to make a stand in favour of the restitution of Trincomalé to the Dutch. You will employ your utmost sagacity in endeavouring to discover this, and not allow a suspicion to be entertained that this object can be given up by us. If however for the purpose of not risking a salutary conclusion to the negotiation, you shall be perfectly convinced that Trincomalé cannot be obtained, you have His Majesty's permission to desist from that claim.... Therefore on finding yourself obliged to desist from the demand of Trincomalé, you will insist as strenuously for keeping Negapatnam and procuring Demerary and Esequibo.

If, upon the same resistance on the part of the Dutch Plenipotentiaries or France, those cannot be obtained, Negapatnam alone must be insisted upon.... The importance, however, of Trincomalé is so great and the expectation of keeping it is so high that nothing, I am persuaded, will be left undone by you to obtain so capital a point...[2]

9

INSTRUCTIONS FROM THE GOVERNOR-GENERAL AND COUNCIL, BENGAL, TO CAPTAIN THOMAS FORREST, 31 May 1784[3]

[Fort William.]

SIR,

Having resolved to dispatch the *Esther* Brig under your command to Rhio[4] and to entrust to your care the establishment of an agency

[1] Draft in F.O. 27/5, ff. 249–51.

[2] After the Shelburne Ministry had been replaced by the Fox–North coalition, Fox strove to secure the substitution of Trincomali for Negapatam in the Anglo-Dutch peace treaty, but without avail. The struggle to secure a naval station in Ceylon was resumed by Pitt and Dundas.

[3] Factory Records, Straits Settlements I, Bengal Consultations, f. 716/2, India Office Library. *Warren Hastings* remained in India as Governor-General till 1785. *Captain Forrest* had already spent some thirty years in the service of the East India Company and been employed on various exploratory missions round New Guinea and in the Indian Ocean.

[4] A port and island off the southern extremity of the Malay peninsula. Forrest was forestalled there by the Dutch.

in consequence of the liberal offer made through you by the King of that place of a situation proper for that purpose, we now proceed to convey to you our instructions for the guidance of your conduct, to which you are as nearly as circumstances will admit strictly to adhere:

You will proceed with all possible expedition to the port of Rhio and deliver the accompanying letter and present from us to the King, adding such assurances of friendship on our part, and explanation of the purpose for which you have been deputed as you may think necessary. You will endeavour to procure a spot of ground commodiously situated for commercial purposes and as near the personal residence of the King as possible, on which when you have obtained a grant of it to the English East India Company, you will erect the British flag.

Your first attention should be exerted to induce the King to place the most unreserved confidence in you by showing him that his interest is materially blended with ours, and holding out to him in return for his protection to our commerce the assistance of the English name and their power and influence in all parts of India, from which he may derive permanent security to himself and his dominions.

But as the preservation of national character and a confidence in our possessions is of much more consequence than any immediate impression of advantage by a connection with us, you will be particularly careful in all your communications either with the King or any of the natives to avoid every expression that can be construed into a promise by which this Government can be committed.

You will use your endeavours to promote reconciliation and preserve a friendly intercourse between the King and the Dutch, always keeping a watchful eye on the designs of the latter, supporting the King by all the influence you can establish for that purpose and taking every opportunity of showing him the danger he may have to apprehend from them, opposed to the advantage of a strict friendship with and confidence in the English.

You will be furnished with an account of the loss the Honourable Company have sustained by the capture of the *Betsy*, contrary to the law of nations when under the protection of the King. The impropriety of his having suffered this infraction of the rights of his port you will represent in the strongest terms and urge him to procure a restitution or indemnification by every means in your power.

The object of your deputation is to open a free intercourse of trade not only with the inhabitants of Rhio but of all the neighbouring islands. You will therefore endeavour to obtain every information respecting the temper, manners, and customs of the natives, and to ascertain the produce of the country, and quantities of each article, what goods produced in any of the Company's territories may be advantageously bartered for them, and the extent to which this traffic may be annual carried on. You will likewise continue to prosecute

your discoveries of the situation, harbours, marks, and produce of the islands near the coast of Mergue, transmitting to us from time to time, as opportunities may offer, such observations as you may deem worthy of our notice with an accurate narrative of your transactions.

Should you think there is a probability of establishing a settlement at Rhio you must in that case apprise the other Presidencies of that appointment and correspond with them. . . .

10

HENRY DUNDAS TO W. W. GRENVILLE

2 September 1787[1]

. . . I do not think our interest can in any such degree be affected by the fate of the Dutch East India Company as to dispose us to embark at all in any measures for its extrication. . . . I feel pretty decisively that, if we attend to our own commercial interests in India, the advantages we possess are of so predominant a nature as to render us independent of the situation of the state of the East India Companies of the other European nations. . . . I believe it to be a mistake to suppose that the trade of any country, be it as prosperous as it may, can so effectually ensure to itself a monopoly as to exclude a considerable share to each country, to the extent at least of its own consumption. What I mean is that, although the great share of the trade of both India and China ought and probably will be in the hands of Great Britain, still France, Holland, Denmark, Sweden, and other countries will certainly have a share, and to the extent that goes, may be used as useful channels of remittance of our revenues. In this view the existence of East India Companies in other nations may be beneficial for us, because we could not be trusting the individuals of those nations with loans in India, however safely or wisely we might be induced to give credit to established companies. In what I have said I have stated the whole interest I feel we have in the existence or fate of the East India Companies of other European nations. But such an

[1] Fortescue MSS. preserved at *Dropmore* (Historical MSS. Commission, Lond. 1899), vol. iii, pp. 419–21. *Henry Dundas* had made his maiden speech in opposition to Lord North's propositions for conciliating America in 1775. He held the office of Lord Advocate for Scotland under North, Rockingham, and Shelburne. In Pitt's administration in 1784 he became a member of the Committee of the Privy Council for Trade and Foreign Plantations and a member of the Board of Control. He became President of the Board of Control in June 1793. *W. W. Grenville* had been secretary to his brother, Lord Temple, during the latter's first tenure of office as Lord Lieutenant of Ireland, and was at this time vice-president of the Committee for Trade and a member of the Board of Control. In June 1789 he became Secretary of State for the Home Department and in March 1790 succeeded Lord Sydney as President of the Board of Control. In November that year he was created a peer to conduct the business of the Lords. In June 1791 he was appointed Secretary of State for Foreign Affairs in place of the Duke of Leeds, and was succeeded at the Home Department by Henry Dundas.

interest is surely not sufficient to induce us to take upon ourselves any load to save the credit of the East India Company of any other nation, and least of all of Holland in its present distracted state. I omit to dwell on the almost impossibility of doing it with any effect on account of the charter of your own East India Company, but I need not in writing to you enlarge on the ignorance and narrow-mindedness of that society. It would be in vain to state to them the happy effects to both nations from a liberal exercise of the trade and industry of both. They would feel every bale of goods that went to Holland, although bought from their own provinces in India, as so many pounds taken out of their pockets, and would of course execrate any idea of interposing, or of the public interposing, to save the India Company of Holland. And it will not escape your observation that if, in such an arrangement, any idea should be adopted of not taking the benefit of the article of the treaty of peace relative to the navigation of the Eastern seas, the East India Company, while their charter subsists, have an absolute negative upon such an idea; for they have by their charter and public treaty a right to that navigation exclusive of other British subjects. And I leave you to judge how far it would be practicable to bring their minds to any concessions which could enable you in the present moment to make any permanent arrangement with the Dutch East India Company. You will, therefore, perceive that the result of what I have wrote is, that, although it may be highly beneficial to derive every information from Mr. Boer, I see no opening upon which you can act to *promote* the object he has immediately in view, namely, the relief of the Dutch East India Company. But after saying this, I have no hesitation in stating it decisively as my opinion that if, either as a means of settling the disturbances of Holland advantageously for us, or of negotiating with the ruling power of the States after they are settled, a strict union between Great Britain and Holland can be restored in India, it is an object of the first magnitude; nor does it occur to me that there can be any difficulty in effectuating it, if the ruling powers of the two countries are so circumstanced in point of disposition to each other as to bring the subject fairly into discussion. I know it is usual to say that the Dutch have no pretension to the almost exclusive possession of the spice trade, and that it is in our power to obtain it to ourselves if we will use the proper means. I may be wrong, but I have always felt differently from others upon that subject, in so much as ought to make me diffident of my own opinion. I cannot feel the importance of the spice trade, nor have I the least disposition to disturb the Dutch in the possession of it. No doubt if Holland and Great Britain are to be on the footing of enemies, or even hostile rivals, in trade to each other, we must aim at the spice trade as a means of annoying them; but laying that idea out of the question, I have no hesitation in thinking that an amicable footing with Holland in India would be cheaply purchased by a total sur-

render to them of the spice trade, which is the great object of their jealousy. What I mean by an amicable footing is a complete enjoyment of the advantages of the Cape and Trincomalé and the arsenals of Batavia in time of war. The cession of Trincomalé to us in return for Negapatan would undoubtedly be a most advantageous transaction. In short, any transaction which makes the Dutch and us friends in place of enemies in India is a good one for us; and in saying this, I desire to be understood as meaning to leave them the exclusive possession of the spice trade, which, according to the ideas which they entertain of that trade, is all they can possibly desire. As to a mutual guarantee of Indian possessions nothing certainly can be safer for us or wiser for them. There can be no difficulty in accommodating them as to opium and saltpetre, but we cannot with any propriety give any further communication of the right of exporting salt without imposing a material revenue. In every other respect there can be no difficulty in placing them on the same footing as the French. When talking of Trincomalé and the navigation of the Eastern seas you write as if the possession of these was incompatible with the interest of the Dutch on account of the spice trade, but I do not exactly follow what you mean in that observation. I do not see how there is any inconsistency between their having the exclusive spice trade, and yet our having Trincomalé as a safe asylum for our fleets, and our having a free navigation in the Eastern seas for the purposes of our China trade, and likewise for the purpose of opening new markets both for our Indian and European manufactures. . . .

11

DUNDAS–GRENVILLE CORRESPONDENCE

30 May to 1 July 1790[1]

Dundas to Grenville

1790, May 30. Wimbledon.

. . . In order that I might be perfectly confident of the grounds of the propositions I stated on Friday evening in our discussion of the Dutch *projet*, I thought it right to send for Mr. Fergusson, lately from Bengal, that I might know the sentiments of the greatest European merchant, I suppose, ever came from India. The result of the conversation is to confirm me with confidence in the following points:—

1. That the spice trade, except as a monopoly, is of no value worth mentioning. 2. That a place of intercourse in the course of navigation between India and China, where our ships may meet the traders and inhabitants of the Eastern Isles, and barter their commodities, is

[1] *Dropmore Papers* (H.M.C. 1892), vol. i, pp. 588, 590, 591.

essentially necessary; and 3. That Rhio is, without exception, the best, or to speak more properly, the only unexceptionable place for that purpose. . . .

Grenville to Dundas

Secret.

1790, June 25. St. James's Square.

. . . The difficulties of our Dutch negotiation seem to increase on us instead of diminishing. I understand from Nagel, that he imagines the cession of Rhio to be as much out of the question as that of Trincomalé, and he assures me that the verbal instruction which he received when he came over here, from the leading people at Amsterdam, was not to hear of giving up either of those two posts, but of the two, the latter rather than the former.

His chief objection, as he stated it, was that Prince of Wales's Island [Penang] and Rhio together gave us the key of both extremities of the straits and put them entirely at our mercy, especially if those ports were fortified. Though I do not agree in all his reasoning, I cannot deny that there is something in it, and it occurred to me that Rhio (as its advantages were last stated to you by Mr. Nagel) seemed to answer all the objects of the Prince of Wales's Island; and therefore that we might, if pushed to extremities, consent to shove that into the bargain, giving up both Negapatnam and Prince of Wales's Island for Rhio. I wish you would let me know what you think of this idea. I think I remember that Lord Cornwallis says, if the And[aman] answer, he meant to withdraw the establishment from Prince of Wales's Island.

Pray let me have your opinion, as soon as you can find time to turn this over in your mind. . . .

Dundas to Grenville

1790, July 1. Melville Castle.

. . . I have yours of the 25th. The more I think on the subject, the more I am satisfied that a station for the purposes of commerce is necessary in the Eastern seas; and, all things considered, there seems no reason to doubt that Rhio from its local situation ought to be that place, and reasons which render Rhio the most eligible go to prove that the Prince of Wales's Island is not so. Its importance therefore depends entirely on the report Commodore Cornwallis shall make respecting the Andaman harbours; but, even if that report should prove not so favourable as we expect, still I think both Prince of Wales's Island and Negapatnam ought to be given up rather than lose Rhio; for, if we continue on habits of friendship with the Dutch, the use we will, of course, have of Trincomalé does not render either the Andamans or Prince of Wales's Island of so *essential* consequence, but

the want of a station such as Rhio would be hourly felt in the exercise of our commerce; and there is no substitute for it the moment we, by giving the spice trade exclusively to the Dutch, depart from an unlimited communication directly with the Malays in their respective islands. . . .

12

HENRY DUNDAS TO LORD GRENVILLE

23 April 1793[1]

. . . The preservation of the Cape of Good Hope is an object of so much importance, both to Holland and Great Britain, it is impossible for this country to view with indifference any circumstance that can endanger the safety of that Settlement, and therefore, before making any particular answer to the requisition of the Dutch East India Company on that subject, I would wish your Lordship to inform me, by means of Lord Auckland, what is the force now at the Cape, either naval or military, what is conceived to be sufficient for rendering the possession of it perfectly secure, how far there is reason to confide in a full supply of provisions and other stores upon the island, either for troops or ships of war, and how far the Dutch are disposed to allow a depôt of British troops to be placed at the Cape, either for its own defence, or for acting offensively from it, if in the course of the war any such measure should be thought expedient. . . .

13

SIR FRANCIS BARING TO HENRY DUNDAS

4 January 1795[2]

Devonshire Square.

DEAR SIR,

The present situation of Holland rendering it doubtful whether she may be able to retain her neutrality, or be obliged to submit to conditions which cannot be foreseen, nor their consequences easily calculated, I beg leave to suggest for your consideration how far it may be right to prepare for an attempt on the Cape of Good Hope which I conceive may easily be surprised, but difficult to conquer if the French shall be suffered to throw a garrison into it. The importance of the Cape is in my opinion comprised under two heads—as a place of refreshment for our ships on their return from India, as St. Helena is unequal to the supply, and we should be much distressed for a substitute if the Cape is lost to us. Secondly, whoever is master of the

[1] *Records of Cape Colony*, ed. G. M. Theal, vol. i, Lond. 1897, p. 10.

[2] *R.C.C.*, vol. i, p. 17 and pp. 22–23. *Sir Francis Baring*, 'the first merchant in Europe', was a Director and had been Chairman of the East India Company.

Cape will be abie to protect, or annoy, our ships out and home, serving at the same time as an effectual check upon Mauritius, etc.— but as a Colony it would be rather dangerous as there is too much encouragement for settlers and we have already too many drains upon our own population. . . .

Annexure, 12 January 1795.

. . . The importance of the Cape with regard to ourselves consists more from the detriment which would result to us if it was in the hands of France, than from any advantage we can possibly derive from it as a Colony. It commands the passage to and from India as effectually as Gibraltar doth the Mediterranean; and it serves as a granary for the Isles of France; whilst it furnishes no produce whatsoever for Europe, and the expense of supporting the place must be considerable.

Under these circumstances it is submitted whether any detriment can arise by holding out the following encouragement, which it is presumed will tempt the inhabitants, if anything can—

That their laws and customs shall be preserved to them: that no taxes whatever shall be imposed, relying on their making proper provision for the expense of the internal government of the country; that their internal trade shall be perfectly free; that they may trade to and from the English East India Company's possessions in India free from duty, with the same advantage as British subjects, or the subjects of the most favoured nation; that they shall enjoy all the advantage of a British Colony in their trade to, and communication with Great Britain; and finally, full protection to their persons, religion, and property.

The freedom of trade is limited *internally*; because it may be convenient to restrain altogether their intercourse with the Isles of France during war, but I have some apprehension they will be aware of the circumstance, and that it may occasion difficulty, which must be met according to circumstances, and must *not* be yielded to them.

The privileges and interest of the English East India Company will be completely guarded; for as their trade to and from India alone is unlimited, and that they are permitted to trade or communicate with Great Britain as a Colony only; the monopoly of the English East India Company which relates to the supply of the home consumption, is effectually protected.

The produce consists at present in provisions, particularly wheat; and the great consumption of the surplus produce is at the Isles of France and the Company's or other ships touching at the Cape in their voyage to and from India. The permission therefore of colonists to introduce their produce for the consumption of Great Britain cannot clash with any other existing interest at this moment. It may merit

consideration, if this country should obtain possession of the Cape, and be mad enough to encourage colonization, but without that circumstance I see no great reason to fear for the concessions proposed. . . .

14

COMMODORE JOHN BLANKETT TO EVAN NEPEAN

25 January 1795[1]

No. 34 Mortimer Street.

DEAR NEPEAN,

As I wrote you some time since concerning the Cape of Good Hope, I will now endeavour to make you master of that subject, which may perhaps be useful.

The Dutch never considered the Cape in a commercial view, but merely as a place of refreshment necessary for the carrying on their commerce to India, and on this principle formed all their colony arrangements. Considered as an entrepôt between Europe and Asia, it has every advantage that can be wished, either in point of situation, climate, soil and productions. The principal regulations that affect the colonists are; the Company claim as a privilege a tenth of all property sold for their use, with a right of preference on the purchase, the price of the commodity to be fixed by the Governor and Council. The Cape Town to be the only market for foreigners, and all goods subject to a duty of entry and exit, and on all sales within the town; no goods to be carried coastwise, nor any boats to be allowed but such as were licensed by Government. Most articles of general use are farmed, such as wine, flour, grain, rice and all sorts of cattle, by which means the supply to foreigners is a monopoly under the control of the Governor and Council. These duties and exactions were meant as a balance to the Company for the expenses of maintaining the Colony.

While the Colony was in its infancy and the plantations at no great distance, all went well, the farmer brought his cattle, his wine and his corn to the Cape Town, where it was bought by the Company's agents and put into their storehouses till the arrival of the ships. By this means the farmer was sure of his market, and enabled to purchase from the Company's stores whatever was necessary to continue his

[1] *R.C.C.*, vol. i, pp. 23–26. *J. Blankett* was Commodore of a small squadron sent to the Cape before the main force arrived under Sir George Elphinstone in June 1795. *Evan Nepean* (1751–1822) was a very able and conscientious official. After holding a clerkship in the Navy he was appointed by Lord Shelburne in 1782 to be Under-Secretary of State in the Home (and Colonial) Department. In that capacity his duties were multifarious. In addition to home affairs he personally dealt with a wide range of Irish and colonial business. In 1794 he was appointed Under-Secretary for War and the following year he succeeded Sir Philip Stephens as Secretary of the Admiralty. He received a baronetcy in 1802; in 1804 (for a few months) was Chief Secretary for Ireland; and was later Governor of Bombay (1812–19).

cultivation. But as the Colony increased in population and culture, the market became over-stocked, the farmer had no longer vent for his increased produce, and although the price to him was kept down, it was increased to the stranger, so that the colonist had the mortification to know, that his own commodity was resold for more than four times the value he received for it. This became one cause of the general dissatisfaction that at present pervades the Colony, which was heightened by the introduction of a paper currency within these few years, which paper was of no value out of the Colony, but in which the Company made all their payments; in addition to these grievances, the colonists have been lately vexed by fines levied for irregularities, or non compliance with new orders. These fines are *ad libitum* and become the perquisite of the Governor and Fiscal.

The ill humour of the colonists has often shown itself at their public meetings, where it has sometimes appeared in the most serious disposition to revolt, although hitherto the Government have found means to palliate by temporary concessions and promises which have been only binding for the moment. The colonists have likewise remonstrated to the States General against the exactions of the Company, who have in that case sometimes recalled the Governor sometimes the Fiscal, but always left the ground of the complaint *ad referendum*. . . .

We must look at the Cape in two points of view, first how it would suit us and then how it would annoy us in other hands, for I am clear the colonists will receive any power that will ensure them protection and commerce although they might wish to give the preference to the English. As it might be considered as not included in the East India Company's Charter, they will naturally be jealous of the interference in their commerce which such a possession might introduce; that is altogether a question of politics that Government must decide on, but as the consequences that arise from situation will be the same whether it falls to us or to France I will touch lightly on that subject.

The Colony of the Cape is an undefined limit, but may be taken to extend to the next European settlements which are those of the Portuguese both to the northward and to the eastward; with encouragement to the settlers in such an extensive country, we should not only supply their wants in providing clothing, tools and various articles, for themselves and their slaves, but introduce our manufactures into the interior of Africa amongst nations whose names are unknown to us. The produce as well as the locality of the Cape, command the coast of Africa and facilitate that commerce. Madagascar and the Brazils depend on the system that may be adopted. The Americans who still persevere in their trade to India and China might be supplied at the Cape and be the means of introducing a beneficial trade instead of the contraband they now strive to continue.

All ships going to or from India make the land about the Cape or

strike soundings on its bank; cruisers on this station therefore can only be counteracted by strong convoys; as our trade is almost periodical, such convoys will be liable to the risks attending long passages, such as separation, accidents, sickness, etc. The Mauritius now kept quiet for want of means to fit out their cruisers, aided by the assistance of the Cape, will become a nest of pirates, secure and unattackable amongst their own rocks.

Whatever tends to give to France the means of obtaining a footing in India is of consequence to us to prevent; it would be idle in me to say anything more to point out the consequence of the Cape than to say that what was a feather in the hands of Holland, will become a sword in the hands of France. I have endeavoured to be as concise as possible, therefore where I have not expatiated give me credit; if you want any farther information I am ready to give it, having been four times there and amongst the latest from it. . . .

B
15

PROPOSALS SUBMITTED TO THE EAST INDIA COMPANY FOR OPENING A NEW TRADE IN THE NORTH PACIFIC, 1785[1]

At a Court of Directors held the 29th April 1785.

The Chairman acquainted the Court that several persons had applied to Government for leave to trade from the North West Coast of America to the islands on the coast of Asia and to Japan, which had received the countenance of His Majesty's Ministers. The Chairman laid before the Court certain proposals for their consideration; the said proposals were read entitled

Proposals for establishing a trade between the North West Coast of America and the islands on the coast of Asia; also additional proposals.

Ordered, that the said proposals be taken into consideration on Tuesday next the 3rd May, and that the Company's Counsel and Solicitor do then attend.

A proposal for establishing a trade to the North West Coast of America and the islands adjacent.

A company of merchants have entered into a subscription for sending out two ships loaden entire with the manufactory and produce of this country, to sail through the streights of Magellan, or round Terra del Fuego to the Pacific Ocean—to attempt to open a friendly intercourse with the natives on the North West Coast of America and

[1] H.M.S. 494/5, pp. 359 ff. Copy of Minutes of the Court of Directors.

islands adjacent; from Cape Blanco to the extremity of the North West Coast—and to endeavour to carry on a continuation of that part of the coast, as well the immense rivers yet unexplored by Captain Cook, or any former navigator.

And as there are a number of inlets in Prince William's Sound, and Cook's River, that time would not permit Captain Cook to explore, it is very probable, that in prosecuting a trade in those parts, that some very essential discoveries may be made and perhaps a communication carried on to Hudson's or Baffin's Bay—the explored extremity of an inlet in Prince William's Sound, and that appeared to run in an E.N.E. direction, the depth of water was found 65 fathom. And likewise to make a further attempt to discover a North West Passage.

Note. From the practical opinion of some officers—from conversation with the natives—the great depth of water at the explored extremity of Prince William's Sound and Cook's River, it is extremely flattering to an opinion that a communication with the ocean and Hudson or Baffin's Bay is very probable.

But as the immense distance of such a voyage must render a first attempt extremely hazardous, they most humbly implore of Government the liberty of establishing a factory in King George's (or Nootka) Sound on the North West Coast of America in latitude 36° N. and 233° 18′ East Longitude—and on Montague's Island Latitude 59° 36′ North, 211° 40′ East Longitude, or any other situation more advantageous for the establishing a mart with the natives for furs, or any other produce to be met with.

And to have an exclusive privilege for the term of —— years to trade from Cape Blanco in Latitude 43° 6′ North, 235° 54′ East Longitude to the extremity of the North West Coast of America.

With the liberty to transport furs or whatever produce they may be able to meet with on the said coast and islands;—across the Pacific Ocean, and to endeavour to open a friendly intercourse with the islands of Japan, Jesso, the Kuriels, and the coast of Asia from Siberia to the Gulf of Siam—ever subject to a prohibition of trading with the Chinese in any article whatever except the produce of the said North West Continent of America—nor to return to Europe with any traffic, the manufactory or produce of China. . . .

That they may be allowed 'to import duty free, in British-built ships, whereof the master, and one-third of the mariners are British subjects, whale fins—or oil, the produce of whales, seals, sea horses, or any other fish or creatures to be met with in the said seas' on the North West Coast of America.

The convenient and noble harbours and bays at the Sandwich Islands, the salubrity of the climate—the fertility of the soil, the great plenty of provisions, with every other possible inducement,—we should propose them as a rendezvous in case of sickness or accident and at a distant view of our present undertaking—should it meet our

wishes, there is every probability of their becoming at some future period the grand emporium of commerce between the two continents, and the innumerable islands in that immense ocean—and not only be of the greatest national advantage, but an ornament to the country from whence so great an undertaking originated.

Additional proposals relative to the establishing a trade between the North West Coast of America and the coast of Asia, the Japanese islands etc.

[*Marginal note*: Proposal for doing away any objection the East India Company may make relative to their Charter.]

The vessels to be laden entirely with such produce and manufactory of this country that will tempt the natives on the islands and the coast of America to barter for their produce which chiefly consists of furs—to sail from hence round Terra del Fuego, or through the Streights of Magellan directly to the coast of America—which we should hope to dispose of in the course of the season in barter for furs—then to stretch directly across the ocean for the islands on, or the coast of, Asia.

The Japanese islands would be our grand object, to open a friendly intercourse with which we have every possible hope of attaining from holding out so great a temptation as the sea otter skins, which being held in such high estimation by them, we persuade ourselves it will not only do away the prejudice of Europe in general 'that the Japanese will not admit of an European commerce, except with the Dutch, and that in a very limited degree' but will open a new source of commerce that may prove of the highest value and importance to this country....

[The East India Company frequently license private merchants 'to trade in any of the seas beyond the Cape of Good Hope', on condition that the goods obtained are sold to the Company. The promoters hope that this practice would be adopted in their case.]

But if the Company will not license them, they must make the best market they can for specie, return to the coast of America, collect what furs they can in running down the coast, make up a freight with whale fins and oil, and return to Europe by the same route they went out, or if they made a good market for specie, might return directly from Japan by Cape Horn (instead of by the Cape of Good Hope) in which case it could not infringe the Company's Charter in any respect whatsoever.

The specie we should collect would be so valuable to the Company, we conceive it would be a great inducement for them to take the whole for remittances in Europe.

Should we be honoured with a Charter we would then make proposals to the Company, which as we conceive they must hold advantages to them, without any possible disadvantages we see no reason they will not be granted.

Having received the most flattering encouragement from conversation

of gentlemen of the greatest eminence and abilities (for knowledge of Japan) that should our attempt meet with success, it may open a very extensive and valuable source of commerce to this country; and that it may not be limited by any Charter that Government may please to grant us, we propose, that in addition to our present subscription for fitting out two ships, that our nominal capital be two hundred thousand pounds to be divided into shares of one hundred pounds each, to be filled up as circumstances may require, after the success of the first undertaking is made known; this will give an opportunity to everyone who may wish to become an adventurer to subscribe; and of extending the present system to any possible magnitude that we can expect to spring from our discoveries.

Some time ago Mr. Bolts[1] assisted by the Imperial Asiatic Company proposed to make this attempt; they built a ship at Marseilles, and procured some of the people who were round with Captain Cook; they made offers to a Mr. Dixon, a man of great abilities, and complete from his experience for such an undertaking; not meeting with encouragement here he accepted the offer, but the affairs of the Company stopped it; but the ship being built and all nearly ready, Mr. Bolts proposed it to the French Ministry, who we now understand have promised him the most liberal support, and they will prosecute the attempt this season. From our knowledge of Dixon, should our proposals meet with the protection and patronage of Government, from his predilection for this his native country, we might retain him in our service, sensible he would be a valuable acquisition to it, but should we not be able to retain him, we have not a doubt of gaining our point provided we can but get the start of them.

We therefore most humbly entreat that Government will be pleased to take the proposals into consideration, fully persuaded that should we succeed, the attempt must prove productive of a source of commerce of the highest importance to this country.

16

RECOMMENDATIONS OF THE COMMITTEE OF CORRESPONDENCE OF THE EAST INDIA COMPANY

6 May 1785[2]

The Committee, taking into consideration the reference of Court made the 3 instant, 'whether a permission under any, and what, regulations may be granted for a ship or ships to proceed to the coast of America and Asia', find, that Mr. Richard Cadman Etches of

[1] *William Bolts* was a Dutch adventurer who had been arrested and deported, whilst in the Bengal Civil Service, for private trading. Since 1778 he had been working for the establishment of an Austrian trading company in Asia.

[2] H.M.S. 494/5, pp. 369 ff.

London, Merchant and other persons in partnership with him, have agreed, if they can get permission from Government, to engage in an adventure to the North West Coast of America; and there to settle small factories, for the purpose of purchasing and procuring furs, and such other goods, the produce of that country, as may be sold at the Japanese islands, or China; and to proceed to, and sell and dispose of such goods at those places, if they can obtain licence of this Company so to do; which said adventure hath been under the consideration of Government; and it is thought to be of importance to this country to endeavour to open and establish such a trade.

And the Committee having conferred with Mr. Etches concerning the said adventure, is of opinion, that this Company may, with safety to themselves, give encouragement thereto, so far as to license two ships for one voyage, by way of experiment, to go to and trade within such of the limits of this Company's Charter as aftermentioned, under, and subject to the following terms and conditions. vizt.

1. That the said ships shall proceed to the place of their destination, on the North West Coast of America, by the way of Cape Horn or the Streights of Magellan; and having taken in their loading, may be licensed and allowed to proceed therewith to the isles of Japan, or other places to the northward thereof, and there sell and dispose of their cargoes of furs, or such other commodities, the produce of the North West Coast of America, as they shall procure there and carry with them.

2. That the said ships shall not go, or proceed to the southward or westward of Canton, or to the westward of New Holland, unless driven by unavoidable accidents, to be proved to the satisfaction of the Court of Directors, nor shall sell or send to, or by any ways or means whatsoever supply or traffic in any European goods whatsoever at China, or to the southward or westward of China, or to the westward of New Holland, or purchase or procure by barter, or otherwise, any goods exept bullion, within those districts of the produce or manufacture of those countries, or which can be procured there, except that if they shall happen to be driven into those seas by unavoidable accidents, and to take shelter in port, they may procure provisions and necessaries to enable them to proceed to Canton; and in case anything shall be done contrary to this stipulation, the persons concerned in the said adventure shall forfeit and pay to this Company the respective sums hereinafter mentioned. . . .[1]

3. That in case the said ships cannot dispose of their goods procured on the North West Coast of America, at the Japanese islands or to the northward thereof, they shall be at liberty to explore and trade

[1] 'Fine for ships going southward or westward of Canton, £5,000. Fine for trading in European goods in China, or to the southward or westward thereof, or to the westward of New Holland, or for buying goods there, with the exceptions already mentioned, £100 per cent. upon the value of the goods bought or sold.'

along the coasts of Correa in their way down to Canton, and as soon as the said ships respectively shall have finished their trade at the Japanese islands, or other places northward thereof, or on the coast of Correa, they shall go directly to Canton in China; and there submit and demean themselves agreeable to such orders and instructions as they shall receive from this Company's supra cargoes; and shall forthwith after their arrival deliver to the said supra cargoes an account in writing of all the goods or money obtained by barter or sale at the Japanese islands or other places to the northward thereof, or on the coast of Correa, and of all American and European goods (if any) remaining undisposed of; and also of all the ship's stores; and shall permit the said ships, goods and merchandizes, to be searched and examined by the said supra cargoes or by such person or persons as they shall appoint. . . .

[Drastic penalties are specified for contravening these conditions.]

and the said ships shall immediately return to Europe in ballast, or with such goods received in barter, and such American and European goods as they shall have on board, and this Company shall not be obliged to load them home; and on their arrival in Great Britain, all such American goods, and all goods received in barter as aforesaid, shall be delivered to this Company, to be sold at their sales; and one half of the net produce of such sale shall be kept and retained by this Company for their own use, and the other half thereof shall be paid over to the persons concerned in the said adventure. And if the persons concerned in the said adventure, or the masters or commanders of the said ships, or any of them, shall refuse, or neglect to come home, as aforesaid, or, on arrival, shall not deliver the said American goods, and the said goods received in barter, as aforesaid, and every part thereof to this Company, to be sold, as aforesaid, the persons concerned in the said adventure shall forfeit and pay to this Company the further sum of £5,000 for every such refusal, or neglect. . . .

[The Company's supercargoes at Canton shall have the first option to purchase at a fair price the furs and other products of the North West American coast remaining unsold when the said ships reach Canton, together with goods obtained in barter at 'the Chinese Islands', Korea, &c. Any such goods which the supercargoes consider unsuitable for the European market shall be sold by the Company for the adventurers on a commission basis either in Canton or (if suitable for that market) in India. The proceeds to be remitted to England by bills of exchange.]

6. That the said ships respectively on their arrival at Canton shall be surveyed by or by order of this Company's supra cargoes; and if on such survey, they shall be found to be in fit and proper condition as to their strength, soundness and ability to perform a voyage to London in safety with a cargo of teas and other China commodities without damaging the same; or can be repaired at China, and put into such condition as aforesaid for the said voyage (which repairs shall be made at the expense of the owners of the said ships) and shall be free from any smell which may be likely to hurt or damage tea; then this

Company by their supra cargoes shall take the said ships respectively into this Company's employ as freighted ships and load them home to London with such quantity of teas and other China goods as the supra cargoes at China shall judge may be safely and conveniently brought in them to Great Britain, at a freight of £13 per ton, to be computed in like manner as such tonnage is computed to other of the Company's freighted ships. . . .

[In the event of any outrage being committed by the adventurers or their agents against the natives of Japan or China or any territories within the limits of the Company's trade, or in case of any dispute arising prejudicial to the Company's trading interests, the adventurers shall make such satisfaction to the natives concerned and to the Company as the supercargoes at Canton may determine, including the payment of a fine not exceeding £2,000.]

17

THE CHAIRMAN AND DEPUTY CHAIRMAN OF THE EAST INDIA COMPANY TO LORD SYDNEY

11 August 1785[1]

East India House.

My Lord,

The Court of Directors of the East India Company after due investigation of the scheme proposed by Mr. Richard Cadman Etches to send an adventure to the North West Coast of America to procure furs to be disposed of at or near the Japanese islands, having agreeable to the wishes and recommendation of Government agreed to grant a licence to trade within the Company's limits under certain limitations, conditions and restrictions which the Court thought necessary, and communicated to Government—Mr. Etches has since delivered a list of the names of the persons concerned in the adventure (a copy of which list is underwritten)—and have informed the Court that the ships *King George*, Captain Portlock, and *Queen Charlotte*, Captain Dixon, are ready to depart on their voyage, they therefore wish to have the licence and deed of covenants perfected as soon as possible. A draft of it has been prepared (of which a copy is sent herewith) but before the business proceeds further, the Court of Directors wish to be informed whether this licence is approved by His Majesty's Ministers. The Company have no other view than to forward an undertaking encouraged by Government as what may be advantageous to the public.[2]

[1] H.M.S. 190/13, p. 247. Thomas Townshend, *Viscount Sydney*, had been Secretary at War in Rockingham's second administration in 1782, and Secretary of State for the Home Department under Shelburne later that same year. Since December 1783 he had been back at the Home Department under Pitt.

[2] Licence was similarly granted by the South Sea Company which held the monopoly of trade off the west coast of America.

Richard Cadman Etches	Merchant—London
John Hanning	Gentleman—Dowlish Devon
William Etches	Merchant—Asborne Derbyshire
Mary Camilla Brook	Tea Dealer—London
William Etches	Merchant—Northampton
John Etches	Merchant—London
Nathaniel Gilmour	Merchant—Gosport Hants
Nathaniel Portlock	Captain of the *King George*
George Dixon	Captain of the *Queen Charlotte*

We are, my Lord, your Lordship's most obedient humble servants,

WILL. DEVAYNES.
NATHL. SMITH.

18

A BOMBAY EXPEDITION TO NORTH WEST AMERICA, 17 September 1785[1]

HONBLE. SIR AND GENTLEMEN,

Having some time ago resolved in sending two vessels on discoveries in the tract recommended in Captain Cook's voyages to the consideration of the honourable the East India Company from China along the coast of America, and having adopted his plan of commerce also for assisting us in defraying the expense of the vessels, we take the leave of requesting your honourable Board's support towards carrying our plan into execution.

As the result of the present undertaking may probably prove beneficial to the honourable Company, not only as tending to discovery but more particularly to their commercial interests, we have a most perfect confidence that in this political point of view your honourable Board will patronize the Expedition with that liberality which an object of such magnitude merits.

On our parts we mean to spare no expense on the outset in furnishing the best vessels in India with complete crews of Europeans and to be officered by gentlemen of the first abilities in the marine profession. Still however the protecting hand of Government will be indispensably necessary in the commencement of our plans towards rendering them so complete as to preclude all risk of disappointment.

The management of this concern being entirely under Mr. Strange, he as a Company's servant will of course collect every information which may hereafter tend to any future views which the honourable Company may have to commerce in those seas. Any instructions also which your honourable Board may be inclined to give relative to

[1] *Bombay Secret and Political Consultations, 1785*, pp. 268–70. India Office Library.

exploring etc. Mr. Strange will be directed to follow and will think it his duty strictly to attend to.

We have already procured one of the completest vessels ever built here, about 300 tons burthen, and known to your Honour etc. by the name of the *Betsey* which is to be immediately sheathed first with plank and then with copper. All the other vessels here have been surveyed and every endeavour used without attention to expense to procure a second vessel of about 150 tons which might in every respect be adequate to the service, but hitherto none has been found possessed of such qualities as appear to us necessary. . . .

[Two small vessels of about 100 tons each are at present being built at Bombay for the East India Company. They are to be allowed to purchase one of them.]

As our plan so clearly tends to public utility we cannot have a doubt of disposition to assist us. But as we are far from wishing to trouble you with unnecessary applications you may depend upon our never addressing you excepting where money and our own exertions cannot supply our wants. . . .

Scott, Tate, and Adamson.
JAS. STRANGE.

19

INSTRUCTIONS OF RICHARD CADMAN ETCHES TO CAPTAIN NATHANIEL PORTLOCK, 3 September 1785[1]

London.

. . . and for the future securing the trade of the continent and islands adjacent, you are to establish *such factories* as you shall see necessary and consistent with the safety of such settlers and your ship's company. King George's Sound,[2] we should presume, not only from being centrical, but in every respect consistent with the intent of forming such establishment;—but in this respect we must leave you entirely discretional.

Mr. William Wilby we have deemed perfectly qualified for such an undertaking, and he accompanies you entirely with that intent. Therefore, wherever it is necessary to establish *a factory*, you are to purchase of the natives such a tract of land as you shall think best suited for the purpose of trading, and for security, paying them in the most friendly and liberal manner for the same. You are then to appoint as many men as you shall deem necessary, and who shall turn out as volunteers, to be companions to Mr. Wilby; you are to give them every possible

[1] Printed in F. W. Howay (ed.), *The Dixon-Meares Controversy*, Toronto 1929, p. 61. The Instructions to Captain Dixon were an exact copy. Cf. N. Portlock, *A Voyage round the World, but more particularly to the North-West Coast of America, performed in 1785, 1786, 1787, and 1788*, Lond. 1789.

[2] The name given by Captain Cook to Nootka Sound.

assistance to erect a log-house, or such other building as shall appear to be necessary for their residence, and for the carrying on traffic with the natives, etc. You are to give them every assistance to make such place tenable against the natives, and provide them with such arms, ammunition, etc. as you shall deem necessary for their defence and protection. You are to leave them such quantities of provisions and other articles for convenience, and the purpose of trade. . . .

20

INSTRUCTIONS OF THE MERCHANT PROPRIETORS TO CAPTAIN JOHN MEARES, 24 December 1787[1]

[China.]

SIR,

As the prosecution of voyages to distant countries must redound to the honour of those who undertake them, by elucidating the obscurities of geography, and opening new channels for commerce; and whereas it appears that a very beneficial trade may be carried on between China and the North West Coast of America, part of which was discovered by Sir Francis Drake, in the year of our Lord 1579; and considering that the situation of China, both for the outfit of vessels for the fur trade, as well as for the disposal of cargoes, is such as must shortly destroy all competition, and give us the exclusive possession of this valuable branch of trade, much to the advantage of our country: from these considerations we have fitted out and equipped two good and sufficient vessels, for the purpose of establishing this branch of trade, viz. the *Felice* and *Iphigenia*.

And you are hereby required and directed to proceed with both vessels, with the utmost dispatch, to the North West Coast of America. The most expeditious route, we conceive, will be to proceed through the China Seas to the southward, between Mindoro and Pelawan, and to the southward of Magindanao; touching, if necessary, at Sooloo; and passing round the northern extremity of New Guinea, get as far to the eastward as the winds will admit, or you may judge necessary; standing then to the northward of the Tropic, to obtain variable winds to carry you to America. As this is a navigation of great extent and duration, it is necessary you should provide yourself with a sufficient stock of water, as nothing so effectually checks the advance and progress of the scurvy as a plentiful allowance of that article.

As the success of the voyage, in a great measure, depends on your early arrival at Nootka, we desire that, if you find yourself detained

[1] J. Meares, *Voyages made in the years 1788 and 1789 from China to the North-West Coast of America*, Lond. 1790, Appendix I. In this account *Meares* asserted that Portlock had made him pay exorbitantly for the small assistance given and had compelled him to sign a bond to cease trading on the coast and to proceed forthwith to Canton.

by the bad sailing of the *Iphigenia*, that you separate from her, and proceed singly to America.

You will give instructions to Captain William Douglass to proceed, with the utmost expedition, to Cook's River, and remain there as long as he may judge expedient; and from thence to proceed to Prince William's Sound; and after remaining there until the trade slackens, to proceed to the southward, to Cross Sound (which is supposed to communicate with the bay to the northward of Cape Edgcombe) and along the coast to the southward, as far as Nootka; examining the several bays and islands, and making such stay in each as may be deemed expedient; endeavouring to arrive in Nootka Sound by the 1st of September, 1788; where he will await your arrival till the 15th of October. And in case of your not appearing in that time, you will direct him to proceed to China with such a cargo as he may be able to procure; and to leave a letter with one of the chiefs, communicating only his arrival and departure.

The inhabitants of Nootka Sound being in expectation of arrivals, will, doubtless, provide a cargo of skins, which will become the prize of the first ship that arrives there. We therefore recommend to you, in the strongest manner, to use the utmost diligence in arriving there. During your stay at that place,—which you will extend as long as you judge proper,—we recommend to you to dispatch your long-boat, well armed, under the command of a prudent officer, to Wicananish, twelve or thirteen leagues to the southward of Nootka, where, we understand, many fine skins may be procured. We recommend to you, afterwards, to proceed to Barclay's Sound, and accurately examine the coast to the southward, as far as the Spanish Settlements. Should the prospect of trade be encouraging, you will then return to the northward, examining the different bays and harbours to the northward of Nootka, particularly the coasts of Queen Charlotte's Islands, as far as 55° north; or execute as much of this part of your Instructions as is consistent with your arrival at Nootka by the 1st of September, 1788.

Should you, on your return to Nootka, find there the *Iphigenia*, you will, in such case, dispatch her to China with all the furs collected: and, as we propose returning her to you as early as possible after her arrival here, you will appoint with Captain Douglass a time and place of rendezvous, that you may receive the instructions and refreshments we may send you next season. We leave it to your discretion to winter upon the coast of America, or at the Sandwich Islands; though, considering the severity of the climate, as well as the health of your people, and that little advantage in the way of trade is to be derived from the former, during the winter season, we conceive it will be more eligible for you to winter at the Sandwich Islands, and return to the coast early in March; of which you will take care to inform the Indians at Nootka, that they may expect your return.

Although you are abundantly provided with copper, iron, and other articles of trade, we must recommend to you the strictest economy in the application of them; as it appears that the natives are such intelligent traders, that, should you be in the least degree lavish, or inattentive in forming bargains, they will so enhance the value of their furs, as not only to exhaust your present stock, but also to injure, if not ruin, any future adventure. . . .

As other furs bear no proportion, in value, to those of the sea-otter, these are to be, of course, the principal object of your trade. Beavers and foxes, particularly the black skins, are of considerable value in China. Marten skins will not bring more than one dollar each.

We recommend to you also, as an object very deserving of your attention, the procuring as much whale-oil and whale-bone as possible; for which you are provided with a sufficient quantity of casks. . . .

On your return to the Sandwich Islands, you will land Tianna at Atooi, or any of the islands he may desire. You will also give him such presents as you think useful or acceptable; and, if possible, you will reserve some of your sheep and goats as a present to this chief: as, by leaving them in his possession, there is a better chance of their being taken care of, and increasing; and thus rendering these islands the best place of refreshment in the world.

We particularly direct that you do not bring away any of the inhabitants of America or the Sandwich Islands, as there is no certainty that there will be any opportunity of returning them to their own country.

Should you, in the course of your voyage, meet with any Russian, English, or Spanish vessels, you will treat them with civility and friendship; and allow them, if authorized, to examine your papers, which will shew the object of your voyage. But you must, at the same time, guard against surprise. Should they attempt to seize you, or even carry you out of your way, you will prevent it by every means in your power, and repel force by force. You will, on your arrival in the first port, protest before a proper officer against such illegal procedure; and ascertain, as nearly as you can, the value of your vessel and cargo; sending such protest, with a full account of the transaction, to us at China.

Should you, in such conflict, have the superiority, you will then take possession of the vessel that attacked you, as also her cargo; and bring both, with the officers and crew, to China, that they may be condemned as legal prizes, and their crews punished as pirates.

Recommending to you unanimity with your officers, and the strictest discipline towards your ship's company, and wishing you a successful voyage,

We remain, sir,

Your obedient and humble servants,

THE MERCHANT PROPRIETORS.

21

CABINET MINUTE, 30 April 1790[1]

Whitehall. *Present*: The Lord Chancellor, The Lord Privy Seal, Duke of Richmond, Duke of Leeds, Lord Chatham, Mr. Pitt, Mr. Grenville.

Upon consideration of the information which has been received from Mr. Meares of the detention and capture of several British vessels at Nootka Sound on the coast of America,[2] and of the circumstances of that transaction, as also of the papers which here have been delivered by Mr. del Campo relative thereto;

Your Majesty's servants have agreed humbly to submit to Your Majesty their opinion that Your Majesty's Minister at the Court of Madrid should be instructed to present a memorial demanding an immediate and adequate satisfaction for the outrages committed by Mr. de Martinez; and that it would be proper, in order to support that demand, and to be prepared for such events as may arise, that Your Majesty should give orders for fitting out a squadron of ships of the line.

22

CAPTAIN MEARES: EVIDENCE BEFORE THE COMMITTEE FOR TRADE, 27 May 1790[3]

. . . Q. Had you any reason to suppose that you would be permitted by the Government at Japan to trade in their territories?

A. We had, for we conceive the Empire of Japan to consist of a number of Islands. The great Island Niphon is under the immediate inspection of the existing Government but the other surrounding Islands are under the command of great Lords who are nearly independent of the principal Government. We received information of

[1] *Dropmore Papers* (H.M.C. 1892), vol. i, p. 579. Enclosed in Grenville to George III, 1 May 1790.

[2] On 13 May 1790 Meares's memorial on the capture of vessels (owned by the Merchant Proprietors and by Etches and Co.) by the Spanish naval commander Don Martinez in Nootka Sound was presented to a sympathetically indignant House of Commons: see Meares's *Voyages*, Appendix I. Reparation was demanded and a fleet under Lord Howe was assembled to enforce satisfaction if Spain proved tardy. A convention with Spain on Nootka Sound was signed largely in Britain's favour on 28 October 1790. See *Parl. Hist.* xxviii. 916–18. (For the debate see especially ibid. 972–80.)

[3] B.T. 5/6, pp. 230–1, 232–3. When the old Board of Trade was abolished with the special American Department in 1782, Lord Shelburne had tried to co-ordinate the work of both under the Secretaryship of State for the Home Department, and to build up a plantation branch there in the Home Office under Grey Elliott, clerk of reports in the old Plantation Office. But in March 1784 a special (temporary) Committee of the Council was appointed to consider trade and plantation business which in August 1786 was itself superseded by a more permanent committee of *ex officio* members under Charles Jenkinson, Lord Hawkesbury, as President.

the nature of this commerce principally from Manilla, from whence a considerable commerce is now carried on to these Japanese Islands, in China junks, by the people of the Philippine Islands, subjects of the Spanish Government, who go in these junks dressed in the habits of the Philippine Islands. We know of no European ships that have of late years gone to these Islands except Dutch, but we had so much confidence in the probability of opening a trade with these Islands that we were determined to fit out a ship laden with these American furs and with European manufactures and to have sent her to the Japanese Islands. We have understood that English broadcloth sold by English merchants in China is frequently carried from thence to the Japanese Islands and there re-sold at a very advanced price. . . .

Q. What prospect had you of opening a trade in these furs and other articles of that sort to Bengal and the other parts of the East Indies?

A. It is true we have hitherto had no trade in India with any of those articles, but we sent a few sea otter skins as a specimen to the Nabob of Lucknow, where they were much esteemed. We conceive that a trade in them might be driven to the northern parts of Bengal and Persia, but not in the same extent as to China. We have found that the nature of the fur trade in China in consequence of furs we have brought from the northwest coast of America is changed. The China merchants who used to go up to Pekin and the northern parts of China for furs, which they purchased of the Russians, now flock to Canton to purchase them of us.

Q. What is the highest price that a good sea otter skin has in general sold for at Canton and what is the lowest?

A. I have sold fifty at one time as high as 95 dollars a skin, and I have reason to believe that skins of the same quality would sell now 20 per cent higher.

Q. What is the reason that such of these skins as have been consigned to the East India Company sold at a price so much lower?

A. The Company's supercargoes dealt with the Hung merchant who put his own price upon them, which was certainly very low, for the price was under 20 dollars a skin in the same year I sold the fifty before mentioned at 95. After the Hung merchant has once set his price no other Chinese merchant dares to bid.

Q. What steps did you take to free yourself from the impediments put upon this trade, arising either from the exclusive right of the East India Company or from the power of the Hung merchant?

A. I traded there as a free merchant by the permission of the East India Company, and being in that capacity I apprehend the committee of supercargoes had no right to interfere with my trade provided it had no immediate connection with Europe. If I or anyone else were to trade there, not being free merchants, I apprehend that the committee of supercargoes would interfere and prevent our

trading. Though the power of the Hung merchant is very great indeed in the commerce carried on at Canton, yet I conceive that he has no right to set his own price upon the goods, if the merchant is not under the necessity of selling them. The merchant may demand what he thinks a fair price, and if that is not given, may take back his goods—it was by following this system that I obtained so large a price for the furs I sold while the supercargoes sold the furs consigned to them at a price so much inferior; and this conduct of the supercargoes materially hurt the markets during the space of twelve months. . . .

23

ALEXANDER DALRYMPLE: PLAN FOR PROMOTING THE FUR TRADE, 1789[1]

[This pamphlet opens with a lengthy exposition of the evidence which in Dalrymple's opinion supported the theory of a continuous waterway between Hudson's Bay and the north-west American coast. Basing himself on that supposition, he advocates a 'union of the operations of the East India and Hudson's Bay Companies'.]

A bare inspection of the map, with the slightest attention to what has been said, will evince that the co-operation of the two companies would effectually secure to this country the command of the fur-trade; for by no other way, than Hudson's Bay, can the communication be made with so much facility, nor with so little expense as by a ship from China: and having thus the option of the Chinese, as well as the European markets, no other traders can stand in competition.

The Canadian traders have extended their traffic up to, and beyond, the Hudson's Bay Company's inland factories; this competition cannot redound to the public interest, but, on the contrary, must enhance the price of the furs, purchased from the Indians;[2] and, what is much more consequence to this country, the Canadians having so great a distance to traverse, and so many carrying-places and rapids to impede their way, cannot convey to the Indians our staple manufactures, such as coarse woollens and iron-ware, but their exports must be chiefly in ammunition, and proof-spirits, to the destruction of the Indians.

[1] A. Dalrymple, *Plan for promoting the Fur-trade*, Lond. 1789, pp. 31–32. *Dalrymple* had been the principal advocate of trade expansion in the China Seas and of discovery in the South Pacific. He had been proposed as commander for the expedition of 1768–9, actually commanded by Cook. He became hydrographer to the E.I. Company in 1779 and to the Admiralty in 1795.

[2] 'In their application for an exclusive privilege for 10 years, they justly represent that an exclusive privilege was essentially necessary for the proper management of this trade, but they forget that the Hudson's Bay Company's Charter had already granted that exclusive privilege. They offered to explore and deliver maps of the country to the west of Hudson's Bay, from 55° to 65° N. latitude: but the Hudson's Bay Company had, before their offer was made, communicated Mr. Hearne's map of those parts, and although Mr. Hearne has left much yet to be done, this is more likely to be effected by the Hudson's Bay Company, than by the Canadian Traders, who seem to be scarcely less savage than the most savage of the Indians.' [A.D.]

Nor, politically considered, is it so desirable that this commerce should be carried on from Canada, as from Hudson's Bay; for if these traders were to reach the South Sea, it is highly probable they would, in conjunction with emigrants from the United States of America, in course of time, establish themselves on that sea, and carry on the trade independent of this kingdom, whereas the factories in Hudson's Bay can never be alienated from the mother-country.

It appears, from the Indian maps, that the Arathapescow Lake communicates with Hudson's Bay; it is therefore highly expedient to examine what obstructions there are to navigate thither; for this Lake is reported by Mr. Hearne,[1] from the information of the Indians, to be about 400 miles long: the most effectual manner of making this examination, would be from the Arathapescow Lake, which, by the observation of the longitude at Hudson's House, appears to be much nearer Hudson's Bay than Mr. Hearne's map represents.

Whoever has read Mr. Hearne's Journal must feel a strong desire of correcting the brutality of the Indians, truely called *savage*, by introducing amongst them the comforts and humanity of civilized life, and nothing will be more conducive, towards effecting that desirable purpose, than establishing the knowledge of God, and the light of the Gospel, amongst them.

But in justice to the Indians on the west coast of America, it ought to be mentioned, that they do not appear, in any degree, so barbarous and brutal: the Ahooa tribe of Indians, in the neighbourhood of Nootka, stood true to their engagements with Capt. Hanna in 1785, and would not sell one skin to Mr. Strange, although he came thither in 1786 before Capt. Hanna, but kept the whole till Capt. Hanna's arrival: this instance of probity and honour ought not to pass unnoticed!

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ALEXANDER DALRYMPLE: MEMORANDUM ON TRADE TO THE SOUTH SEAS AND THE NORTH WEST COAST OF AMERICA, 23 February 1791[2]

I have heard from more than one person that it is in the contemplation of Ministers, by way, it is alleged, of profiting by the Spanish Convention, to open the trade to the South Seas, and the North West Coast of America, to all ships that may choose to proceed thither

[1] See Samuel Hearne's own account, *A Journey from Prince of Wales's Fort in Hudson's Bay to the Northern Ocean . . . in the years 1769, 1770, 1771, and 1772*, Lond. 1795. This narrative has been edited for the Champlain Society by J. B. Tyrell, Toronto 1911. For his subsequent journeys see *Journals of Samuel Hearne and Philip Turner between the years 1774 and 1792*, ed. Tyrell, Champlain Soc., Toronto 1934.

[2] H.M.S. 494/5, pp. 441 ff.

without any other restriction, than giving bond to conform to the articles of the Convention: that all such vessels shall be allowed to proceed to China, to dispose of their cargoes, and by way of inducing the East India Company to give their consent, it is proposed the amount of these cargoes shall be paid into the Company's cash for bills on England, and perhaps they may offer to bring home teas at a low freight. . . .

The obvious motive for the measure in contemplation is the extension of trade.

I will readily admit that the free trade of the South Seas would be of the utmost value to this manufacturing and commercial country. But without considering how far a smuggling trade should be encouraged, I am confident a free ingress into the South Seas, of every vessel giving bond to conform to the terms of the Convention, would not be the means to obtain that commerce, but would be the ruin of more adventurers than it would enrich.

In the first place a knowledge of the taste and fashions of the Spanish colonists is necessary to adapt the manufactures to their markets; a knowledge, not only unlikely, but almost impossible, for the crowd of adventurers to possess; a very considerable trade is now carried on from this country, through Spain, to the Spanish colonies; this trade would be stopped. By the Convention no vessels are allowed to go within 10 leagues of the Spanish territories, and therefore every vessel offering to go nearer would be liable to confiscation; and by the public sale of such cargoes, European commodities would be so depreciated in value, that the adventurer who was not seized would be unable to obtain a profitable market, even independent of the risk he is exposed to of seizure.

The only sensible way to obtain a direct share in the commerce with the Spanish colonies in the South Seas, is by establishing a free port in some of the islands to the westward, in a low latitude, such as the Galapagos, to which Spanish vessels of any burthen small and great would come to purchase our commodities. The onus of prevention is then thrown on the Spanish Government, and when the extent of coast is considered, it must be obvious that it cannot effectually be prevented, and that every attempt of their Government to prevent, will increase discontent if it exists, or raise a general discontent if it does not already exist.

At the same time we shall be enabled to learn the true state of those parts, and know exactly what is, as well as what is not under the Spanish dominion.

The 2d point is the fur trade on the North West Coast of America.

Of all trades none so much requires to be under regulation as the fur trade. One of two things must take place; either the number of furs may be obtained to any extent? or the number to be obtained must be limited? In the 1st case the value at the foreign market must

be greatly depreciated, by an unbounded and unregulated influx: in the other a competition must raise the value beyond measure at the place of purchase; and the adventurers being without mutual communication, the number of purchasers on the coast would be either too great to obtain cargoes, or too small to take off the furs collected, which would throw the trade infallibly into the hands of the Spaniards at their settlements, or of the Americans who have already engaged in that branch of trade, and unless we profit by the advantage of our possessions in Hudson's Bay, which would secure us a shorter cut, the Americans will certainly beat us out, as they can sail so much cheaper than we; and as it is a branch of trade that does not require a great capital.[1]

I have in the Memoir on the fur trade, already pointed out the mode of securing the fur trade to this country by the cooperation of the East India and Hudson's Bay Companies, and this plan might be made a merit of, with the Spaniards as effectually preventing disputes. I am confident everyone fully conversant with the subject will perceive that it would be ruinous to the Southern Fishery to blend fishery and commerce. . . .

I do not question that our commerce in the East may be greatly extended; and I also readily admit that it is incumbent on the Company to endeavour extending their commerce; but I contend that the Company are more competent to extend the commerce to effect, than any chance adventurers, who are deterred from prosecuting a trade if the first attempt fails, which is always most likely to happen in the ignorance of the assortment, proper for an unknown market, and of the character and disposition of the rulers; and should chance be in favour of the first adventurer the public is kept in ignorance; whereas a failure of the first attempt by the Company may prevent a like mishap, if the Company are stimulated to action by Government; for I acknowledge that corporate bodies naturally require stimulation.

I have fully discussed [in] the pamphlet I formerly published on the proposed settlement at Balambangan the very great advantages that would have attended a settlement of our own in the vicinity of China, to which the Chinese junks from all the maritime parts of that Empire could have freely come; and although, all cirumstances considered, I know of no situation so admirably adapted for an Oriental Emporium as Balambangan, considered with respect to China only, I should prefer Cochin China even to it; and as it is likely the French in their

[1] Alexander Mackenzie, who had been a partner in the North West Company since 1787, made an expedition in the summer of 1789 down the Mackenzie River to the Arctic Ocean and in 1793, from the prairies, crossed the Rockies by the Peace River Pass and by way of the Fraser River reached the Pacific. See his *Voyages from Montreal . . . through the continent of North America to the Frozen and Pacific Oceans in the years 1789 and 1793*, Lond. 1801. For the movement of the fur trade westwards in the period following Mackenzie's voyages, and the amalgamation of the North West and Hudson's Bay Companies in 1821, see H. A. Innis, *The Fur Trade in Canada*, New Haven 1930.

present confusion should abandon if they have not already abandoned that enterprise, it would be very desirable for us to get possession of Turon, which is a harbour formed by a high peninsula connected to the continent by a long low isthmus, and consequently has a natural capacity to be rendered impregnable at a small expense, and this peninsula is of sufficient extent for all necessary cultivation and habitation: the Chinese junks of all sizes could navigate thither as they would scarcely ever be out of sight of land and but very little of the way out of sight of their own coasts.

A depôt in China cannot answer the desired purpose for removing the disadvantages under which the Chinese trade is now carried on; because supposing what is by no means probable that the Chinese Government would allow an European fixed establishment in their country, especially in the eastern or northern parts: the trade would be carried on under at least many of the same restrictions as at present, and the great vicinity of such depôt would expose our trade to effectual obstructions from the officers of the Chinese Government: this objection would operate against Macao, should the course of European politics ever expose the Portuguese flag to hostility. Macao is also very strong by a natural situation, but the peninsula is barren and not fit for cultivation like that of Turon, and the harbour of Macao will not admit ships of the largest size.

It may be proper to add a word on the proposition of chance ships visiting any port in China besides Canton; although the urbanity of the Chinese would certainly relieve their distress, it does not appear by any means probable from what happened at Amoy, that they would be allowed to trade, but if there was no other obstruction, how are they to get interpreters? For although the Chinese at Canton carry on their business in English, and those at Macao in Portuguese, there is not the smallest probability of a chance comer finding any person through whom he could transact his commercial concerns, and if from ignorance of language, or other circumstance, disputes should arise, it might have very fatal consequences upon the trade at Canton, which is too important rashly to put to any risk.

There is indeed great reason to suppose a beneficial intercourse might be opened with Japan: I am positively assured that they have translated some of our modern books from the Latin, which language has been retained; particularly that Potts *Surgery* has been translated into Japanese and published by them. But although the connection with Portugal does not now subsist, which formerly occasioned us to be excluded, yet is it likely that an illiterate adventurer in a chance ship should be the most proper person to renew our intercourse with a people so scientific and well informed?

I cannot conclude these remarks without explaining a circumstance in which my opinion has been very much misconceived; as if I recommended a multitude of trading factories in the East: concerning

Prince of Wales Island I said that every settlement which, by its own revenues or advantages, would support the expense, and did not require an European force, was beneficial, as tending to the general increase of commerce: but I very much disapprove the dissipation of Europeans, in scattered military detachments, although I know too much of the eastern islands, not to know that unarmed factories would be ruinous and disgraceful, as constantly exposed to be cut off. I meant only such settlements as are in the ordinary line of communication, so as to have an eventual security against invaders or where natives of a different part of India could be employed for the protection of the settlement, which ought always to be established in a place of natural strength, where a few men could defend it against a number of assailants; and all such settlements should be calculated for defence against Indians only: for if defences are raised to maintain it against an European force, the expense and embarrassment becomes enormous; at the same time I much question if any settlement will support itself without territorial revenues.

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LORD GRENVILLE TO THE LORDS COMMISSIONERS OF THE ADMIRALTY, 11 February 1791[1]

My Lords,

His Majesty having judged it expedient that an expedition should be immediately undertaken for acquiring a more complete knowledge than has yet been obtained of the north-west coast of America, I am commanded to signify to your Lordships His Majesty's commands that the necessary measures should be adopted for that purpose. The *Discovery* and *Chatham* Brig being, as I understand, in readiness for this service, it is desirable that no time should be lost in their proceeding to the Sandwich Islands, where the officer commanding those vessels should be instructed to winter.

During the time of his remaining at those islands he is to employ himself in the survey and examination of them; and as soon as the weather is favourable, which may be expected to be in February or at latest in March, 1792, he should be instructed to repair to the American coast for the purpose of his survey.

It having been agreed by the late convention between His Majesty and the Catholic King that the buildings and tracts of land situated on the north-west coast of the continent of North America, or on islands adjacent to that continent, of which the subjects of His Britannic Majesty were dispossessed about the month of April, 1789,

[1] Draft in H.O. 28/8, pp. 17–24. Another version from the Banks papers is printed in *Historical Records of New South Wales*, vol. i, Sydney 1892, part ii, pp. 451–4.

by a Spanish officer, shall be restored to the said British subjects, the Court of Spain have agreed to send orders for that purpose to their officers in that part of the world; but as the particular specification of the parts to be restored may still require some farther time, the King's orders for this purpose must be sent out to the Sandwich Islands by a vessel which may carry out a farther store of provisions for the *Discovery* and *Chatham*, and should sail from this country in time to reach the Sandwich Islands in the course of the ensuing winter. If in consequence of the arrangement to be made with the Court of Spain it should hereafter be determined that the *Discovery* should proceed in the first instance to Nootka or elsewhere, in order to receive from the Spanish officers such lands or buildings as are to be restored to His Majesty's subjects, orders to that effect will be sent out by the vessel above mentioned. But if no such orders should be received by the commanding officer of the *Discovery* previous to the end of January, 1792, he should be directed not to wait for them at the Sandwich Islands, but to proceed in such course as he may judge most expedient for the examination of the coast of north-west America comprised between lat. 60 north and lat. 30 north.

In the examination of this coast the principal objects which he is to keep in view are:—

First.—The acquiring accurate information with respect to the nature and extent of any water communication which may tend in any considerable degree to facilitate an intercourse for the purpose of commerce between the north-west coast and the countries upon the opposite side of the continent which are inhabited or occupied by His Majesty's subjects.

Secondly.—The ascertaining with as much precision as possible the number, extent, and situation of any settlements which have been made within the limits above mentioned by any European nation, and particularly by Spain, and the time when such settlement was first made.

With respect to the first point, it would be of great importance if it should be found that by means of any considerable inlets of sea, or even of large rivers, communicating with the lakes in the interior of the continent, such an intercourse as I have already mentioned could be established. It will, therefore, be necessary that for the purpose of ascertaining this point the survey should be so conducted as not only to ascertain the general line of the sea-coast, but also the direction and extent of all such considerable inlets, whether made by arms of the sea or by the mouths of large rivers, as may be likely to lead to or facilitate such communication as I have described.

This being the principal object of the examination, as far as relates to this part of the subject, it will probably appear to your Lordships that a considerable degree of discretion must be left to the officer commanding the expedition as to the best means of executing the service which His Majesty has in view.

But as far as any general instructions can here be given on the subject, it seems desirable that, in order to avoid any unnecessary loss of time, he should be directed not to pursue any inlet or river further than it shall appear to be navigable by vessels of such burthen as might safely navigate the Pacific Ocean. But as the examination of such inlets, even to the extent here stated, may possibly require that the officer commanding the expedition should proceed up them further than it might be safe for the *Discovery* to go, it seems necessary that such officer should be authorised by your Lordships to take the command in person of the *Chatham* Brig at all such times and in such situations as he shall judge it necessary or expedient, and that corresponding orders should be given to the officer commanding the latter vessel.

The particular course of the survey must, of course, depend on the different circumstances which may arise in the execution of a service of this nature. It will, however, be proper that the officer commanding on this expedition should be directed to pay a particular attention to the examination of the supposed Straits of Juan de Fuca, said to lay between 48 and 49 north lat.,[1] and to lead to an opening through which the sloop *Washington* is reported to have passed in 1789, and to have come out again to the northward of Nootka. The discovery of a near communication between any such sea or strait and any river running into or from the Lake of the Woods, which is commonly laid down nearly in the same latitude, would be particularly useful. If the vessels employed on this service should fail in discovering any such inlet as I have spoken of to the southward of Cook's River, there appears the greatest probability that it will be found that this river rises in some of the lakes already known to our Canadian traders and to the servants of the Hudson's Bay Company. This point it would in that case be material to ascertain with as much precision as the then existing circumstances of the expedition may allow. But the discovery of any similar communication more to the southward, should any such exist, would be much more advantageous for the purposes of commerce, and should therefore be preferably attended to. With respect to the second of the points above mentioned, it is probable that more particular instructions will be given by the vessel to be sent to the Sandwich Islands after the *Discovery*. But if not, the officer commanding the expedition is to be particularly directed in the execution of this and of every other part of the service with which he is entrusted, to avoid with the utmost caution the giving any ground of jealousy or complaint to the subjects or officers of His Catholic Majesty; and if he should fall in with any Spanish ships employed on any service similar to that committed to him, he is to afford to the officer commanding such ships every possible degree of assistance and information, and he is to offer to him that they should make to

[1] South of Vancouver Island.

each other reciprocally a free and unreserved communication of all plans and charts of discoveries made by them in their respective voyages. . . .

I herewith enclose to your Lordships lists of such articles as have been procured for the purpose of presents. These will be delivered into the care of the commanding officer, to be disposed of by him according to the regulations which have been observed in similar cases.[1]. . .

C
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THOMAS FITZHUGH TO NATHANIEL SMITH

29 August 1787[2]

[Plasparver.]

DEAR SIR,

In the last conversation we had together before I left Town concerning an embassy designed to be sent from the Court of London to the Court of Pekin, you desired me to give you my sentiments on the subject and as far as my recollection goes you particularly wished to know

First. In what part of China it would be proper to land the ambassador.

2ndly. Whether it is probable he would be well received at Pekin.

3dly. Whether by an application immediately to the Chinese Court, great advantages might not be expected to arise by establishing our trade on a more liberal footing than it stands at present.

Be assured I shall always willingly communicate anything to you which I think can be of use or give you satisfaction though on the present subject I may fail in both. I will not however tread much on the slippery ground of speculation, but endeavour to found my opinions on facts as far as my memory and materials will go.

With regard then to first—in what part of China it would be proper to land the ambassador—I think he ought to land at Canton, because it is the place which all embassies from Europe have hitherto been sent to excepting the Russian which went through Siberia to Pekin, and it is at present the only place to which Europeans are allowed to go. This may appear a frivolous reason to you but custom and

[1] Captain George Vancouver's instructions, drawn up in the terms indicated here, were dated 8 March 1791 (see Vancouver's *Voyage of Discovery to the North Pacific Ocean and round the World*, Lond. 1798, vol. i, p. xvi), but Vancouver found them obscure in important particulars and asked for clarification (see Vancouver to Nepean, 7 January 1793, in G. S. Godwin's *Vancouver*, Lond. 1930, p. 219. This he received in a dispatch dated 31 March 1794 from Dundas (F.O. 72/33).

[2] Factory Records, China, 91, pp. 1 ff. *Thomas Fitzhugh* had been an E.I. Company supercargo at Canton and was an influential expert on Company policy in the Far East. *Nathaniel Smith* was Deputy Chairman of the Company.

prejudice usurp the place of reason among a people bigotted to forms; otherwise Tien-stin [*sic*] is a seaport within seventy miles of the capital, which, for distance would be more eligible, as the journey from Canton to Pekin is above fourteen hundred miles. But there appears to me a material reason why Tien-tsin would be an exceptionable port for an English ambassador to debark at. It is the place to which an English agent was sent in the year 1759 to present a remonstrance, and it was hoped he would be able to proceed to Pekin. He was not however permitted either to go thither or to embark again, but sent down by land to Canton by orders from Court to make good his charges, and the vessel was obliged immediately to leave the port. I think it therefore probable that the Chinese Government, suspecting something of a similar nature by the arrival of another English ship, might proceed in a violent and peremptory manner, without considering the difference between the Company's agent and the King's ambassador. At best I believe the ship would be ordered to leave the port and the ambassador informed that he must go to Canton, the usual place of reception, as the Dutch and Portuguese had done before.

Secondly—'Whether the ambassador would be well received at Court'—I think he would, as far as the pride and singular forms of the Chinese allowed of. The prostrating himself before the Emperor's throne would not on any account be dispensed with. A Russian ambassador was many years ago sent back without an audience for refusing to submit to that ceremony. The Dutch ambassador in 1656 and the Russian in 1720 submitted to it and acknowledged that they did. No public account of the Portuguese ambassador's proceedings at Pekin in 1754 has come to my knowledge, nor did I ever hear that any further relation of that embassy was published than what appeared in a newspaper. The Chinese however assured me that he also was obliged to comply with that ceremony; and I have no doubt of it; because it is not likely that the Chinese would yield to the Portuguese what they had refused to Peter the Great, whose ambassador was informed in mitigation of so humiliating a custom, that whenever the Emperor sent an ambassador to Russia his orders would be to conform to their forms and regulations. It is said that this ceremony has for many years been the bar to a French embassy. At Pekin the ambassador would according to Chinese custom founded on jealousy be much confined and have a guard set over his house; nor would any Chinese have access but by permission of that guard. On complaining he would most likely be told in excuse that such caution was necessary to prevent his being imposed on or robbed by ill designing people.

The third question is the most material. 'Whether by an application immediately to the Chinese Court great advantages might not be expected to arise by establishing our trade on a more liberal footing than it stands on at present.'

A short review of the success of other nations may in some degree be an answer to it. . . .

[The writer then gives an account of the Dutch embassy to Pekin in 1656, the embassy sent by Peter the Great in 1720, and a Portuguese embassy in 1754—none of which achieved any positive result.]

The above, as far as I can judge, is a fair state of the success of embassies to China, nor can I suggest to myself a reason why one sent from England should be more favoured. The Chinese Government is proud and insolent. It looks with contempt on all foreign nations. Its ignorance of their force gives it confidence in its own strength, which by experience it knows to be superior to the bordering hordes of Tartars with whom it is commonly engaged in war; nor do I think it looks on embassies in any other light than acknowledgments of inferiority. Many I know are of a different opinion, and they form it from what has sometimes passed at Canton, where when disputes have arisen, there has been an appearance of fear, not only in the common people and merchants, but among the Mandareens, and even the Vice-Roy himself has shown anxiety and apprehension. Allowing this to be true, it does not change my opinion, because I have always believed that such apprehensions arose not from our power and force, but from the absurdity of their own Government which supposes that if any disturbance happens it must be owing to some misconduct of the magistrates; and if the tumult is of a serious nature and lives are lost, the Mandareens are disgraced, sometimes executed. And now having to the best of my knowledge answered the points you seemed desirous to be informed of, I will add a few hints which occur to me on the general subject.

The affairs of the embassy when at Pekin will be put under the direction of one of the six supreme courts—I believe the third. Some presents as well as some address will be necessary there, as the opinion of the ministers will in all probability influence the Emperor. The Vice-Roy of Canton will also expect some acknowledgment for reporting the ambassador's arrival etc.

Whatever the contents of the letter to the Emperor may be, it should be written in Latin as well as English, that the ambassador may have the aid of the European priests residing at Pekin, who may be called on to assist in translating it into Chinese. As in such case it would be right to cultivate their friendship, some presents should be thought of proper for their acceptance.

It will be of material service to have an European in the ambassador's train who speaks the Chinese language, as the linguists of the country are not to be depended on, not only because their English is very superficial, but because they dare not interpret what is dictated to them unless it is consonant to Chinese discretion and decorum. . . .

If ever an embassy succeeds better than by experience any have hitherto done, I think it will be on the accession of a new Emperor.

Such a circumstance would give it an appearance of congratulation, and be a flattering introduction to the great object in view. The present Emperor is 75 years old.

I recollect nothing more at present. If anything I have suggested proves of use in this business I shall be well pleased to have added my mite. If not, you will have very little trouble in reading this letter, and I shall think it none to have written.[1]. . .

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INSTRUCTIONS BY HENRY DUNDAS TO LORD MACARTNEY, 8 September 1792[2]

. . . Upon the present view of the matter, I am inclined to believe that instead of attempting to gain upon the Chinese administration by representations founded upon the intricacies of either European or Indian politics, you should fairly state, after repeating the general assurance of His Majesty's friendly and pacific inclinations towards the Emperor, and His respect for the reputed mildness of the administration: First, the mutual benefits to be derived from a trade between the two nations, in the course of which we receive, beside other articles, to the amount of twenty millions of pounds weight of a Chinese herb which would find very little vent, as not being in such general use in other countries, European or Asiatic, and for which we return woollens, cottons and other articles useful to the Chinese, but a considerable part is actually paid to China in bullion.

Secondly, that the great extent of our commercial concerns in China requires a place of security as a depôt for such of our goods as cannot be sold off or shipped during the short season that is allowed for our shipping to arrive and depart; and that for this purpose we wish to obtain a grant of a small tract of ground or detached island, but in a more convenient situation than Canton, where our present warehouses are at a great distance from our ships, and where we are not able to restrain the irregularities which are occasionally committed by the seamen of the Company's ships, and those of private traders.

Thirdly, that our views are purely commercial, having not even a wish for territory, that we desire neither fortification nor defence, but only the protection of the Chinese Government for our merchants or their agents, in trading or travelling through the country, and a security to us against the encroachments of other powers who might

[1] A copy was sent to Lord Macartney, 20 February 1792.

[2] Factory Records, China, 91, pp. 341 ff. *Lord Macartney* had had diplomatic experience on a mission to St. Petersburg in 1764 and had been at various times Chief Secretary for Ireland, Governor of Grenada, and Governor of Madras. After the failure of his mission to Pekin he was employed in the Diplomatic Service until appointed in 1796 as Governor of the Cape, where it was felt he could give expert advice and strong government.

ever aim to disturb our trade, and you must here be prepared to obviate any prejudice which may arise from the argument of our present dominions in India, by stating our situation in this respect to have arisen without our intending it, from the necessity of defending ourselves against the oppressions of the revolted Nabobs, who entered into cabals to our prejudice with other nations of Europe, and disregarded the privileges granted to us by different Emperors, or by such other arguments as your own reflections upon this subject will suggest.

This topic I have reason to believe will be very necessary to enforce by every means in your power, as it is the great object of other European nations to inspire not only the Indian powers, but likewise the Emperor and Ministers of China with an idea of danger in countenancing the subjects of Great Britain, as if it were the intention of this country to aim at extending its territory in every quarter; as nothing can be more untrue than these representations, it will not be difficult for you to find arguments which may counteract the effect of them. . . .

Should it be required that no native Chinese be subject to be punished by our jurisdiction, or should any particular modification of this power be exacted, it is not material ultimately to reject either of these propositions provided British subjects can be exempted from the Chinese jurisdiction for crimes, and that the British Chief or those under him be not held responsible, if any culprit should escape the pursuit of justice, after search has been made by British and Chinese officers acting in conjunction.

If the Emperor should be inclined to allow such an establishment, great care should be taken in fixing upon the situation, that it may be such as may suit the safety and convenience of our shipping, that it may facilitate the vent of the goods we may import there, and that it may be near the countries where the best sorts of teas are produced. . . .

If on the other hand all your attempts to obtain a new establishment should be decidedly ineffectual, you must turn your principal attention to the relief of our present embarrassments at Canton, by an extension of our privileges, and a revision of the proceedings which have taken place to our prejudice and discredit; and whatever may be the decision of the Imperial Government, unless, indeed, it should be a rejection of all your requests, it will be desirable to obtain it in writing under such formalities as are usual on such occasions.

It is necessary you should be on your guard against one stipulation which perhaps will be demanded from you, which is that of the exclusion of the trade of opium from the Chinese dominions as being prohibited by the laws of the Empire. If this subject should come into discussion, it must be handled with the greatest circumspection. It is beyond a doubt that no inconsiderable portion of the opium raised within our Indian territories actually finds its way to China; but if it should be made a positive requisition, or an article of any proposed

commercial treaty that none of that drug should be sent by us to China, you must accede to it rather than risk any essential benefit by contending for a liberty in this respect, in which case the sale of our opium in Bengal must be left to take its chance in an open market, or to find a consumption in the dispersed and circuitous traffic of the Eastern seas. . . .

During your residence in China it will be an object highly worthy of your attention and best efforts, to endeavour to increase our exports to China as well in the assortments usually sent as in any other products or manufactures of Great Britain and of our Indian territories which might be favourably received by the Chinese. The Directors of the East India Company, who have ordered one of their ships to accompany the Embassy, have shipped on board a great variety of articles of British goods not for the purpose of sale, but to be dispersed and distributed by you in the most likely manner to excite a taste for, and establish the use of such articles in China. They have also shipped a great variety of patterns and specimens of our manufactures, that the Chinese may be able to judge from thence of their quality and perfection, and how far they may be adapted to their climate, taste and manners. . . .

It is possible that you may find it either necessary or expedient to touch upon the coast of Japan. That country produces tea as good as, and probably cheaper than that of China. The difficulties of trading there, which have so long deterred other nations from attempting it, are now said to have almost ceased. . . .

In the small but fertile kingdom of Cochin China not only tea but sugar in great abundance is said to be produced, and exported from thence at a cheaper rate than from any other part of the East or West Indies. The alarming increase in the price of the last article in Europe not only affects the lower class of the people, among whom it has become a necessary of life; but the public revenue, as well in its own diminished consumption, as in that of other taxable articles with which it is used. This consideration renders any country that is likely to supply the want of it at a reasonable rate an object of attention in the present instance. . . .

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EAST INDIA COMPANY: COMMENTS ON LORD MACARTNEY'S INSTRUCTIONS, 9 September 1792[1]

Directors are of the opinion that the Company's situation in China is greatly improved, and in [a] state of continual advancement. The exports to China from being at first very trifling, have risen nearly to the proportion of the imports from thence. Great caution will be

[1] C.O. 77/26.

necessary in attempting to improve the situation of the Company. The grievances stated in Colonel Cathcart's[1] instructions are considerable, and probably unauthorized by the Emperor; but it should be remembered that a complaint with regard to them may amount to a criminal charge against some persons in power. The Company's trade at present suffers by a literal execution of an imperial ordonnance for redress of grievances.

The chief objects are: to impress the Chinese with a favourable opinion of the Embassy; to procure a factory at Canton or to the north with the freedom of trading to some of the other Chinese ports; to procure information on the subject of Chinese commerce and manufactures.

With respect to the disadvantages of the Cohong,[2] doubts have been entertained by some of the Company's resident servants. The large scale upon which they transact business, the security of their debts, the readiness with which they further any experiment for the introduction of any new articles, instanced in the reception of Cornish tin, should be balanced against the charges of monopoly. It is a fact that the Company are free to buy and sell with other Chinese not members of the Cohong, but it is necessary that the transaction should pass in their name. At present, as the members of the Cohong are security for the payment of the duties, their frauds are uniform and subject to calculation, which possibly would not be the case in the event of the Company's being freed from their impositions and subjected to those of the officers of the revenue. In case of the abolition of the Cohong, an accurate tariff should be substituted, and with regard to the whole transaction it should be remembered that the Company have never yet been benefitted by any change.

In case of our obtaining an establishment to the north of Canton, it would be necessary to make such regulations as may secure us from the bad consequences which the riotous behaviour of our seamen has brought on us, in common with other European nations, in producing their interdiction from all the ports of China except Canton. It is probable that if the affair of the gunner[3] had reached the Emperor's ear, an end might have been put to all European commerce. It were to be wished that we could obtain a receptacle for our seamen as near Wampoa as possible or somewhere where they might be under the eye of their officers.

The chief articles imported from China are: tea, silk, cotton, silk goods, earthenware. Tea is become an article of such extensive

[1] *Colonel Cathcart* served in Bengal and was Quartermaster-General from 1783. He was appointed an ambassador to China in 1787, but died before reaching his destination.

[2] A Co-hong was a close corporation, or guild, of Chinese merchants, arbitrary in establishing prices, and oppressive to all other merchants who did not share these privileges.

[3] A Chinese was accidentally killed by a British soldier in the course of a ceremonial salute.

consumption that it is much to be wished that it could be introduced and cultivated in India.

Information should be obtained relative to the culture of silk and the manufacture of piece goods, which is established to a vast extent in India. Some enquiry should be made with respect to the nankeen dye: information should be obtained with respect to the nature and extent of the cotton manufacture, as there is reason to believe that the Chinese manufacture exceeds the consumption of the country. At the same time when a misunderstanding prevailed between Russia and the Chinese, Indian piece goods were sent to Moscow and this demand ceased again on the amicable arrangement of the dispute. Should our exports to China increase in the proportion they have hitherto held, it would be advisable to look for some article of Chinese manufacture which we might receive in exchange, as it is to be feared that the loss on the precious metals imported here from China would exceed any profit that could be made on English exports. An account should be kept of all proceedings relative to the embassy, with a journal and diary.

In case the continuance of a Minister from His Majesty, or the Company, should be disapproved by the Chinese Court, enquiry should be made with respect to the utility which missioners may be of to their respective nations, and some one of those already resident there should be engaged in the interest of the Company—an Italian would be preferable to a Frenchman.

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LORD MACARTNEY TO CAPTAIN ERASMUS GOWER

27 July 1793[1]

. . . Whilst the necessary preparations for sea are going forward which no doubt you can safely commit to the attention and abilities of your officers, I shall wish to have the pleasure of your company with me to Pekin, where if there should be any opportunity, during your stay, of an audience of the Emperor, and that he should be inclined to ask any questions relative to the British Navy, you could give him the most complete satisfaction.

One of the brigs may remain in the River of Tien-Sing to convey you to the *Lion*, after which I have to request you will sail away from the coast of China, so as not to appear upon any part of it, till the month of May next. . . .

[He is to proceed to 'the port of Jedda on the southern coast of Japan', where he is to deliver a letter from Macartney to the local ruler. He is to discover whether the inhabitants entertain the aversion to all foreigners which has been reported of them

[1] Factory Records, China, 92, pp. 137 ff. *Capt. Gower* was in command of the *Lion* which took the Macartney mission to China.

and to find out 'how far their wants, or their fancies, might lead them to purchase any British manufactures'. If there is no response to his overtures there, he is to proceed to Manilla, where fresh provisions may be had, and where he may meet persons acquainted with Japan and the Japanese language. He is then to sail southward to Mindanao, where the Sultan has on previous occasions encouraged the English to develop trade in his dominions, and then if possible to extend the voyage to Gilolo in the Moluccas, 'though not subject to the Dutch'.]

But if you should find it convenient to reach Gilolo, and that you should discover any inclination there to favour us, you will endeavour to convey to the Government there my intention of visiting that country, if my stay in Asia will allow it, and of negotiating a useful compact between the two nations.

Either from Gilolo, or immediately from Magindanao, you will proceed to that part of Celebes which is supposed not subject to the Dutch. Your former experience at that island will give you uncommon advantages on the present occasion, both as to the navigation and the disposition of the people. I have to say in regard to Celebes, exactly what I have already mentioned in regard to Gilolo, and to request you to deliver under similar circumstances a similar message, and likewise the same at the island of Borneo, where I hope you will be able to stop also, either at Bangar, Succadana, or at the capital called Borneo. In Bangar we had formerly a factory. In the city of Borneo there are I understand some British subjects, either resident there, or occasionally trading to it. I have only to observe that the great object of my mission is to spread the use of British manufactures throughout every part of Asia, from whence any valuable returns may be made to Europe, which is eminently the case of Borneo. The jealousy of the Dutch traders may be in our way in some parts of that great island, but you may be able to find out where we should be most likely to interfere with them. But upon all occasions I particularly wish that you should be thought employed only in discovery and marine observations, and not in preparing for any future enterprise or negotiation of policy or commerce. The time which visiting so many places will take up, together with the delays which may be necessary in the several ports at which you are to stop, will bring you to the vernal equinox or thereabouts, after which I wish you to make the best of your way to Macao, where I shall expect you, as nearly as possible to the first of May next. As no occasion is to be omitted which promises any sort of utility, it occurs to me that another, but more successful trial might be made to get into Pulo-Lingen, if that place should be in your track on your return to the northward. The same motive of public benefit might have induced me to include in the route I have pointed out the eastern part of the island of Formosa (which has been said not to belong to the Chinese), the several smaller islands to the eastward of Formosa and the Lukay Islands to the southward of Corea, if I were not afraid of interfering too much with the other more material parts of the undertaking, but it will give me additional satisfaction, if it

should so happen that you could see and gain information also as to the places, which I have now mentioned. . . .

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THE EMPEROR OF CHINA TO GEORGE III, October 1793[1]

. . . To conclude, as the requests made by your Ambassador militate against the laws and usages of this our Empire, and are at the same time wholly useless to the end proposed, I cannot acquiesce in them. I again admonish you, O King, to act conformably to my intentions, that we may preserve peace and amity on each side, and thereby contribute to our reciprocal happiness. After this, my solemn warning, should your Majesty, in pursuance of your Ambassador's demands, fit out ships, with orders to attempt to trade either at Ning-Po, Tchusan, Tien-Sing, or other places, as our laws are exceedingly severe in such cases, I shall be under the necessity of directing my Mandareens to force your ships to quit these ports; and thus the immense trouble and exertions of your merchants would at once be frustrated. You will not then be able, however, to complain that I had not clearly forewarned you. Let us therefore live in peace and friendship, and do not make light of my words. For this reason I have so repeatedly and earnestly written to you upon this subject.

In the fifty-eighth year of the reign of Kian-Long, and on the third day of the ninth moon.

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EAST INDIA COMPANY: ORDERS FROM THE COURT OF DIRECTORS TO LORD CORNWALLIS, RELATING TO THE STRAIT OF MALACCA, 1786[2]

. . . You will observe by our letter of —— concerning Rhio, the great importance of which we think it is to secure a proper establishment to which the Buggesses and Malays may resort for the purchase of opium, piece goods and European manufactures; we regret much that our orders arrived too late to secure the possession of that port, which from its situation would have answered every purpose to us. We must now recommend to your consideration the proposal contained in a letter from Capt. Light[3] to the Governor General dated

[1] Factory Records, China, 92. This letter was delivered to the Ambassador on 7 October 1793.

[2] Factory Records, Straits Settlements, i, f. 719. *Lord Cornwallis* was appointed to supersede Macpherson as Governor-General in 1786.

[3] For Captain Francis Light see H. P. Clodd, *Malaya's First British Pioneer*, Lond. 1948. *Light* had been in the East India Company's service for more than

January 25th, 1786 and transmitted to us by Mr. Macpherson[1] relative to an establishment at Junk Ceylon, and another at the island of Penang, lying between the 5th and 6th degree of north latitude, and if it shall appear to you that the fixing an establishment at either or both those places will be attended with the advantages set forth in that letter you will take such steps as you conceive most proper for attaining the object we have in view. At this distance, without the advantage of local information, or being able to choose, and immediately avail ourselves of the proper opportunity, we empower you to act as circumstances shall occur, without waiting for orders from us and think it sufficient to point out the objects for your attention and the general policy to be observed, leaving the application of them as occasions offer to your zeal and discretion; we wish, that without embroiling ourselves with the Dutch, or giving them any well founded jealousy of our intending to wrest from them or rival them in the spice trade, that every practicable method should be tried for extending our commerce amongst the Eastern Islands, and indirectly by their means to China, we wish that every means consistent with the strictest attention to the faith of treaties with European powers, should be used to conciliate the esteem and affection of the natives, and to teach them to look up to the English as their friends and protectors. We wish therefore that every proper and judicious method should be taken of counteracting the policy of the Dutch in enslaving the independent powers and that every assistance should privately be given them in resisting any unjust attack upon their liberties; we would particularly point your attention to the most prudent and effectual means of giving support to the King of Salangore, as that would, from the friendly intercourse which has long subsisted between us, give credit to us in the eyes of the other Malay chiefs, and secure their confidence and esteem.

It is unnecessary to dwell upon the bad consequences, which may in case of any future war result from the Dutch being suffered to have the sole exclusive possession of such important passes as the Straits of Malacca and Sunda; every means short of declared and open hostility on the part of your Government should be used to encourage and support the natives in resistance to any attempts to enslave them, and to encourage them trading with us. How far it may be proper to intimate such intentions to the Dutch Government or only to leave them to take effect by their own operation must be left to your judgment.

twenty years. He had acquired considerable influence with the Sultan of Kedah in 1771.

[1] *John Macpherson* was acting as Governor-General, Hastings having sailed for England to face impeachment. Light had informed Macpherson of his determination to acquire Penang. On 15 February 1786 (*Journal of the Indian Archipelago*, New Series, vol. ii, pp. 182–7) he notified Macpherson of his success. His personal influence with the Sultan of Kedah had achieved what his predecessors had failed to do.

The great importance of the China trade, the necessity of extending by commercial means the resources for our investment from that country, as well as the good policy by awing the Dutch to prevent a rupture with them, or in case of its taking place, to be able to avail ourselves of it advantageously, to break effectually their spice monopoly, make us look with sanguine expectations to the benefit of an establishment somewhere near the Pitts Straits, which by the judicious choice of an harbour for shelter and refreshment, for our ships which may make that passage, as well as for promoting the most important operations in case of future war, will effectually answer those purposes.

We hope that the voyage about to be undertaken by Captain Forrest to Tidore, when the last advices came from Bengal, will throw lights upon the state of the navigation and commerce of the Eastern Islands which may promote our views in that part of the world. You will also consider from his intelligence, as well as the people left behind from the *Northumberland*, whether it might be advisable to avail ourselves of the good disposition of the people of Magindino towards us, either by carrying on a trade on the part of the Company, or encouraging discreet individuals to open that trade for their own profit. . . .

32

AGREEMENT WITH THE SULTAN OF KEDAH FOR THE CESSION OF PRINCE OF WALES ISLAND [PENANG], 2 March 1786[1]

Conditions required by the King of Quedah

Replies of the Governor-General and Council to the King of Quedah's demands

Article I

That the honourable Company shall be guardian of the seas; and whatever enemy may come to attack the King shall be an enemy to the honourable Company, and the expense shall be borne by the honourable Company.

This Government will always keep an armed vessel stationed to guard

[1] W. G. Maxwell and W. S. Gibson, *Treaties and Engagements affecting the Malay States and Borneo*, Lond. 1924, p. 95. By a further agreement, also negotiated by Captain Francis Light and dated 20 April 1791, it was provided that the E.I. Company would pay to the Sultan of Kedah 6,000 Spanish dollars annually 'for as long as the English shall continue in possession of Pulo Penang' (printed in Maxwell and Gibson, p. 96). For Light's own comments on this agreement see *Journ. of Indian Archipelago*, New Series, vol. ii, pp. 190–2. On 22 January 1787 Sir John Macpherson gave Light positive orders to establish Penang as an entrepôt for free commerce. To encourage merchants to resort thither 'we desire you will refrain from levying any kind of duties or tax on goods landed or vessels importing at Prince of Wales Island and it is our wish to make the port free to all nations' (*Journ. I. Arch.*, vol. iv, p. 634).

the Island of Penang, and the coast adjacent, belonging to the King of Quedah.

ARTICLE II

All vessels, junks, prows, small and large, coming from either east or west, and bound to the port of Quedah, shall not be stopped or hindered by the honourable Company's Agent, but left to their own wills, either to buy and sell with us, or with the Company at Pulo Penang, as they shall think proper.

All vessels, under every denomination, bound to the port of Quedah, shall not be interrupted by the honourable Company's Agent, or any person acting for the Company, or under their authority, but left entirely to their own free will, either to trade with the King of Quedah, or with the agents or subjects of the honourable Company.

ARTICLE III

The articles opium, tin, and rattans, being part of our revenue, are prohibited; and Qualla Mooda, Pryre, and Krean, places where these articles are produced, being so near to Penang, that when the honourable Company's Resident remains there, this prohibition will be constantly broken through, therefore it should end, and the Governor-General allow us our profits on these articles, *viz.*, 30,000 Spanish dollars every year.

The Governor-General in Council, on the part of the English East India Company, will take care that the King of Quedah shall not be a sufferer by an English settlement being formed on the Island of Penang.

ARTICLE IV

In case the honourable Company's Agent gives credit to any of the King's relations, ministers, officers, or ryots, the Agent shall make no claim upon the King.

The Agent of the honourable Company, or any person residing on the Island of Penang, under the Company's protection, shall not make claims upon the King of Quedah for debts incurred by the King's relations, ministers, officers, or ryots; but the persons having demands upon any of the King's subjects, shall have power to seize the persons and property of those indebted to them, according to the customs and usages of that country.

ARTICLE V

Any man in this country, without exception, be it our son or brother, who shall become an enemy to us shall then become an enemy to the honourable Company; nor shall the honourable Company's Agent protect them, without breach of this Treaty, which is to remain while sun and moon endure.

All persons residing in the country belonging to the King of Quedah,

who shall become his enemies, or commit capital offences against the State, shall not be protected by the English.

ARTICLE VI

If any enemy come to attack us by land, and we require assistance from the honourable Company, of men, arms or ammunition, the honourable Company will supply us at our expense.

This Article will be referred for the orders of the English East India Company, together with such parts of the King of Quedah's requests as cannot be complied with previous to their consent being obtained.

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CAPTAIN FRANCIS LIGHT TO THE GOVERNOR-GENERAL, BENGAL, 25 January 1794[1]

[Fort Cornwallis.]

HONOURABLE SIR,

From the present populousness of the Settlement and the daily increase of its inhabitants, circumstances repeatedly occur tending to show the necessity of establishing a more regular form of Government than exists at present under the sole administration of one person. From the great number of strangers constantly coming and going, a strict police is essentially requisite. From the great diversity of inhabitants, differing in religion, laws, language and customs, a constant and patient attention to their various complaints must be afforded, and from the increasing acquisitions of new settlers, to portion them out lands, to fix their boundaries, and encourage their industry, by administering to their more urgent necessities, which of itself is a sufficient employment for one person, a part of the Superintendent's time must be occupied.

In the letter from your honourable Board bearing date the 24th January 1787, in case of the removal of the Superintendent by death or otherwise it is directed that he be succeeded by the Commanding Officer of the Troops. This for a temporary relief may suffice but as the power by this event, both civil, military, or judicial, will be vested in the hands of one person, without any intermediate authority on the spot, either to control or to advise, it appears to me that if continued, especially in a commercial settlement like this, many cases would occur novel to a military officer, and disagreeable circumstances might soon arise which would evince the absolute necessity of separating

[1] *Journal of the Indian Archipelago*, vol. v, Singapore 1851, pp. 7–11. *Sir John Shore* (afterwards Lord Teignmouth), an honest but somewhat timid bureaucrat, was Governor-General. He did not consider himself empowered to introduce such courts, though on 1 August the Supreme Council agreed to appoint two Assistants to help the Superintendent.

these powers. In consequence whereof should a civil servant be sent from the Presidency he will for a considerable time be incapable of transacting the duties of this station, but by means of an interpreter, and as he must be unacquainted with the customs and manners of the people he is to govern, he will be liable to the imposition of designing people to the prejudice of the public. From these several reasons it appears to me necessary for Government to appoint a successor to the present Superintendent that may acquire in due time a competent knowledge of the people, their language and their customs.

Very few people residing here, excepting the Chooliars, were ever acquainted with European Governments. Brought up under the feudal laws and customs they cannot at once change opinions that they have imbibed from their infancy. To endeavour to subject these people to our strict military law and discipline would soon depopulate the island of all the most wealthy and useful inhabitants. A mild, at the same time an active Government is necessary. The inhabitants must at all times have recourse with the Chief, and as they are composed of many different nations they are jealous of each other, and will not submit their cause to the decision of one whom they think is a partial administrator. The administration of justice will therefore for some years continue to be a troublesome and fatiguing office, which makes it necessary that the person who is to execute the duties of it should be acquainted with persons and circumstances before he enters upon it. Mr. Pegou has been here a long time, is well qualified as a successor in the Civil Department, but in order to have a regular train of succession and to have persons be capable of executing the several trusts necessary to be reposed in them by Government, I recommend the following mode for your consideration:—

That the Superintendent may have three assistants, one as Assistant and Cash-keeper, one as Paymaster and Accountant, and one as Collector and Registrar of lands and people.

That each of these assistants should alternately act as Justice of the Peace monthly, and once a month a General Court should assemble, consisting of the Superintendent as President, two assistants, two military officers and two of the most responsible inhabitants, to try all criminal cases.

The office of Collector may appear unnecessary where there is no landed revenue, but the plantations, particularly pepper, are increasing so fast that it will afford employment to one person to examine and register them previous to a tax being laid. A Board of Plantation might be established to meet occasionally, at which this officer should preside, to determine upon the making of roads, division of the lands, the adjustment of boundaries, and the encouragement of agriculture; their determination, when sanctioned by the Superintendent, to be carried into execution, unless it should be so far creative of expense as to render it an object worthy to be previously reported to your

honourable Board. To execute the duties of all these departments with success and precision without more assistants I find impracticable.

That you may be better enabled to judge of our society I shall endeavour to give you an idea of the people who compose it.

The Chinese constitute the most valuable part of our inhabitants. They are men, women, and children, about 3,000; they possess the different trades of carpenters, masons and smiths, are traders, shopkeepers and planters. They employ small vessels and prows and send adventurers to the surrounding countries. They are the only people of the East from whom a revenue may be raised without expense and extraordinary efforts of Government.

They are a valuable acquisition, but speaking a language which no other people understand they are able to form parties and combinations in the most secret manner against any regulation of Government which they disapprove, and were they as brave as intelligent they would be dangerous subjects, but their want of courage will make them bear many impositions before they rebel. They are indefatigable in the pursuit of money, and, like the Europeans, they spend it in purchasing those articles which gratify their appetites. They don't wait until they have acquired a large fortune to return to their native country, but send annually a part of their profits to their families. This is so general that a poor labourer will work with double labour to acquire two or three dollars to remit to China. As soon as they acquire a little money they obtain a wife and go on in a regular domestic mode to the end of their existence. They have everywhere people to teach their children, and sometimes they send males to China to complete their education. The females are always kept at home with the greatest strictness until they are married; they then enjoy greater liberty. They are excessively fond of gaming—there is no restraining them from it. This leads them into many distresses, and frequently ends in their ruin. . . .

To keep these several tribes in peace, settle their disputes, and prevent their destroying each other, it is necessary that a person should attend daily to receive and adjust their several complaints, which, if of a serious nature, or such as will admit of immediate relief, may be referred as follows:—

If of mercantile disputes, to a Court of Arbitration composed of one of the honourable Company's servants and four inhabitants.

If of territorial controversies, to the Board of Plantation.

If of wilful trespass, breach of peace, or personal injury, to the General Court.

Where the parties are strangers, and on the point of leaving the island, a General Court of any three of the officers may be summoned to decide upon the complaint.

A regular form for administering justice is necessary, both for the peace and welfare of the society, and for the honour of the nation who

have granted them protection. It is likewise improper the Superintendent should have it in his power to exercise an arbitrary judgment upon persons and things; whether this judgment is iniquitous or not the mode is still arbitrary and disagreeable to society. . . .

34

THOMAS GRAHAM: AN HISTORICAL SKETCH OF THE CIRCUMSTANCES WHICH LED TO THE SETTLEMENT OF PENANG AND OF THE TRADE TO THE EASTWARD PREVIOUS TO, AND SINCE, THAT PERIOD, 1794[1]

Previous to the Peace of 1763 we had little or no trade to the eastward, which centred wholly with the Dutch. The Kings of Johore having about 1756 forced the Dutch to grant them a licence to trade in every species of goods whether of the Dutch monopoly or not, removed to Rhion a port on the Island Binting. About 1768 this port became frequented by the English and eastern nations of the Chinese archipelago, and though under the monopoly of the King and his nobles and subject to a duty of 5 per cent. it increased so rapidly that by 1779–80, when it was interrupted by the American War, it had become an object of anxious uneasiness to the Dutch and of great mercantile convenience to the English.

A paucity of English frigates, number of French and Island privateers had so far repressed individual adventure that the Company experienced a necessity of sending their own opium to market. Captain Geddes arrived at Rhion with a cargo and was there blocked up by a French and a Dutch ship. They offered the King 1/3rd to permit their taking her out of the river. This was acceded to and Captain Geddes taken. A tardiness in the Dutch in bringing this 1/3rd to the King's Treasury induced him to approach Malacca with a considerable force, which ended in a war, in which the King was killed, Rhion taken, and the inhabitants dispersed.

During the American War great inconvenience was experienced from the necessity which our Fleet was under of going to Bombay, as it left the Bay and our possessions and communications without defence from October to April. This as it affected the supply of the Carnatic with provisions involved consequences of such serious import as induced Government to make inquiries after a port of retreat for the Fleet in the Bay.

And the inconveniences experienced by traders from the want of

[1] H.M.S. 437/6, pp. 139 ff. Enclosed in Thomas Graham to Dundas, Calcutta, 29 May 1795. *Graham* was senior member of the Board of Revenue of the Company and a member of the Supreme Council.

Rhion as a mart of exchange induced a wish that a settlement equal to remedying both might be made.

While Government and the public remained in this state, Mr. Light's procuring a grant of Penang determined their views to a point.

The capture of Rhion by the Dutch was in 1785, though it had been blockaded at times for 2 years and Penang was settled in August 1786.

When this settlement was first made, had an examination deserving credence been ordered, or had credence been given to such, as was ordered, it is most natural to suppose that Government would have adopted measures most likely to render it useful for the purposes intended.

The difficulty of distinguishing between proposals specious or real, and the indecision which from repeated deceptions marks the measures of all Governments in adopting new undertakings plainly evinces their opinion of man in general and thence the caution with which they give credence to reports and their indecision in determining between undertakings either of which may answer and both perhaps unnecessary.

Whatever the cause, the measures indicate either a doubt of their reports or a change of opinion respecting the general measure, so that they remained balancing from 1787 to December 1792 between Andamans and Penang and thence nothing was done for either.

During this interval the two infant settlements exhibited a curious experiment in estimating the difference between natural and forced advantages.

In December 1792 the Andamans remained as settled with an establishment, but no acquired trade, population or cultivation: while Penang in 1792 had invited for trade, provisions, or repairs 300 vessels annually to frequent its port, besides 1,000 of country vessels; had acquired a revenue of 30,000 Spanish dollars, a population of about 20,000, independent of its establishment, and a cultivation in pepper, sugar, indigo, paddy, greens and eatable roots of great extent and rapidly increasing.

The rugged shores and deserted state of the one, the easy access and recess, freedom from gales, safety of its anchorage, plenty of provisions and increasing tonnage and population of the other ought to have been conclusive with Government in determining a preference.

We shall in a separate paper consider the extent of the objections which were thought sufficient to set it aside as a marine port and proceed to consider the trade previous to its settlement and which is now in a great measure centred and increasing here.

Our trade in 1779–80 might realise in China about 15 to 20 lacks annually and to India about 5 lacks[1] Rs.—from 1780 to '85 this trade

[1] A lack (modern spelling *lakh*) is 100,000 Rs. There were various local issues of the rupee with fluctuating values during this period from about 3*s*. to 5*s*.

was mostly in the hands of the Portuguese, the price of piece goods was at a medium prime cost and opium never rose above 250 Spanish dollars per chest. On settling Penang we found it at 260, since which it has gradually rose from 300 chests at 260, to 1,200 at 350. The trade from an aggregate 20 lacks: to 15 to 20 on the coast of Acheen, rendered practicable from the influence of Penang: about 5 to 10 to the coast of Borneo from same cause, and internally to 30 to 40 lacks of the produce of Bengal and India. In peace we have demands from Surat all round again to the Mauritius and Mozambique.

A trade of such extent, direct or accessory, deserves some attention, but the same indecision or indifference from whatever cause originating marks the measures of Government.

This is the more unaccountable as its commanding situation for protecting our trade to China and the eastward, and the individual distress and expense to the public which the withdrawing it involves, independent of the annoyance it would give in an enemy's possession, should induce them to make it as useful and as little expensive as possible.

What is done, in a manner without system or aid, originated in a general declaration of the Superintendent in the name of Government, that a protection in person and property with liberty to turn their industry to account at pleasure, to profess every religion which was consistent with general good and peace of the whole.

That everyone should have a property in the lands he cleared, and grants given in perpetuity as soon as the boundaries could be ascertained.

Such as had faith in these declarations had to struggle against an established trade and large capitals at Malacca and Batavia, besides a fear of insult at home and depredation abroad from the indefensible state in which the settlement remained, the large property it often contained, and inflammable materials of which its houses were formed.

Yet such is the effect [of] a perfect liberty of exchange at pleasure, such the common advantages of these exchanges, that we in a few years reduced the duties at Malacca from 85 million per annum to 40,000 R. dollars, and the imports of opium to Batavia from 2 to 1,000 chests.

Our progress in drawing the trade of the Chinese Archipelago is likely to be nipped in the bud by measures adopted in Bengal, to understand which it may be necessary to particularize one branch of our trade. . . .

[After a circuitous voyage in the East Indies traders from Celebes arrive in Penang in September and October with gold to purchase opium, piece goods, iron, &c.]

While mint certificates were received in payment of opium and no duty on the coinage, the merchants of Penang were enabled to give a price equal to Batavia and better than Malacca. But a detention of from 6 to 9 months in the mint and $3\frac{3}{4}$ per cent. duty having lowered the price of gold here nearly 10 per cent., it will gradually revert to

Batavia. Receiving mint certificates in payment of opium for all gold imported from Penang and discontinuing the duty is an encouragement the place deserves and which would remedy this evil. Besides 'tis impolitic to lay obstructions amounting to a prohibition on the importation of the precious metals.

Excuse my mentioning the American flag, which is a phenomenon, as a separate state, unparalleled in history, viz., two nations with the same laws, religion and language, permitted to intermix without any discriminating distinction. Hence if their ships are allowed to navigate at pleasure, we shall father all their bad deeds and themselves their good ones. Their robberies, piracies etc. will be done under English colours, they reaping the benefit, we the odium. They will besides rapidly ruin the carrying trade, occasion your tonnage to dwindle to nothing and joining your enemies on some future day, leave you without any. To remedy this, if to the double duties they now pay, they be restricted from importing into our settlements the produce of India, or of carrying it from port to port, independent of our control or on account of English subjects, it would confine them to their exports from America which under double duties could not increase to any extent, and no property belonging to us furnished by our subjects, they must bring specie or return empty which would soon put an end to their adventures or at least prevent its being hurtful to our own tonnage and trade.

The Dutch do not allow them to trade in their ports at all, a guard is sent on board, wood, water and provisions supplied and in 48 hours sent off. . . .

Revenue, trade and law

Duties on imports or exports ought never to be thought of here while you wish to extend your trade, increase your people or while you may be injured by a competition. It is of all modes the most vexatious to the Government from the expenses of collection and difficulty even at any expense of carrying the restriction into pervading effect. These difficulties will be found insuperable at Penang, every part of whose shores are accessible at all times and which has a separate sovereignty in the middle of its port.

Besides, the trade of Penang, until its agriculture or mineral produce gives it native export, will be what is called a commerce of economy, or in other words, a brokerage, on the general exchange of the produce or manufactures of other countries. This brokerage will be more or less in proportion to the quickness and extent of sales and payments, and the attendant convenience when compared with a circuitous retail trade among the islands and ports contiguous. But if this brokerage is increased by a duty, the difference would transfer the depôt to the Queda shores, and overbalancing the inconveniences of a circuitous retail, carry adventurers to the native ports, when Penang would

revert to the jungle it originally was. This mode of raising a revenue ought therefore never to be thought of. On the contrary every inducement ought to be held out to settlers and traders which may be aiding in increasing its exchange trade and rendering these exchanges easy and expeditious.

Farming by public sale the quota of the produce of the several districts is the best possible mode as the receipts are thereby net and the farmer having no coercion, independent of civil obligation which directs the one to demand and the other to comply the extent of both defined, no oppression can possibly supervene. Besides, being sold annually, it comes into different hands in succession, which prevents the influence acquired by Zemindars or renters. . . .

Laws

. . . It appears evident if we may conclude from experience that the regulations between debtor and creditor only increase the evils they are meant to remedy.

The best heads and hearts have been employed in curtailing the periods of decision, the expenses incident, the term, manner and place of punishment, all of which has so little relation to the end in aim that a law superseding occasionally all fixed existing laws is the only remedy, which is itself an absurdity.

Suppose we were to make an interesting experiment in our new settlement on this desideratum which has baffled all attempts at reform and enact that after a certain day no credit could be recoverable by coercive law, this strikes at the root of the evil, renders your complicated, discordant and oppressive laws unnecessary, leaves everyone dependent on his own industry, banishes the crimes which originated in credits badly used, and replaces by degrees a kindly connection of confidence repaid with honesty. Let it be inquired into and half of the crimes in our courts originate in this source. We make experiments in all other sciences, why not try one in legislation where it can do no harm. If this is established, public houses of delivery and payment with attendant officers must be established on which duty equal to the incident expense may be levied.

This simple regulation involves in its consequences an extent of effect which would be found favourable to the industry and peace of the society where it may be adopted.

And where lays [*sic*] the difference, a credit is given and received with mutual intent of paying and receiving in the parties—the term then is all. But as honesty is the best security it is probable that such would independent of a reliance on coercion in the giver procure a term so that none would suffer but the fraudulent and even these it might reform, besides the superseding one half our present laws and rendering half the lawyers unnecessary.

35

STAMFORD RAFFLES TO LORD MINTO, 10 June 1811[1]

. . . The annexation of Java and the Eastern Isles to our Indian empire, opens to the English nation views of so enlarged a nature, as seem equally to demand and justify a bolder policy, both of a commercial and political kind, than we could have lately contemplated. The countries which must, directly or indirectly, fall under our influence and authority, form a range of possessions which, with intervals of no great importance, extend nearly from the Bay of Bengal to our settlements on the continent of New Holland. These are occupied, excepting where the Dutch have taken the territorial possession into their own hands, by several small groups of principalities, none of which, taken separately, have any pretensions to the rank of a powerful or independent state. The tribes of which they are composed, though varying radically in customs, manners, religion, and language, and possessing very different degrees of civilization, have long been confounded by Europeans under the general appellation of Malays, a term which may still be retained for convenience. It may be safely affirmed that about the period when the Europeans first began to frequent these countries, they were not only much more populous, but the governments were more strong and steady, and the inhabitants in general much farther advanced in civilization. The Dutch, solely attentive to their own commercial interests, have, in their intercourse with these regions, invariably adhered to a more cold-blooded, illiberal, and ungenerous policy, than has ever been exhibited towards any country, unless we except the conduct of the European nations towards the slave-coast of Africa. In some instances, as in the case of the clusters of the Isles of Banda, the original inhabitants, when they opposed a resolute resistance to their encroachments, have been entirely extirpated. Whenever the natives have displayed great courage and magnanimity of character, as in the case of the Macasars of Guah, and the Bugis of Soping, these natives have been hunted down with a perseverance worthy of a better cause. Indeed, the domination of the Dutch in the Malay countries seems to have been maintained in direct opposition to all principles of natural justice and sound policy, and which amply deserves a degree of reprobation little short of their

[1] *Memoir of Sir T. S. Raffles*, by his widow, Lond. 1830, pp. 69–71. (*Sir*) *Stamford Raffles* had been secretary to the Governor and Council at Penang. When Holland was annexed by the French, Lord Minto received permission to protect Java and Raffles was appointed Lieutenant-Governor in 1811. When, despite his remonstrances, Java was returned to the Dutch in 1816, Raffles was recalled, but was confirmed in office as Governor of Bencoolen the following year. In 1818 he was recognized as agent for British interests eastward of the Straits of Malacca and was successful in persuading the E.I. Company to purchase Singapore from the Sultan of Johore. Gilbert Elliot, first *Earl Minto*, had prepared with Burke the case for the impeachment of Hastings and Impey. He was appointed Governor-General of India in 1806.

transactions at Amboyna and Batavia, with regard to the English. But however their policy may be characterized, I apprehend that their claims to territorial right in the Eastern Isles, in which all the nations of Europe have so long and so blindly acquiesced, will be found to be very much inferior to what is generally supposed, unless, perhaps, in the Isle of Java itself. As their claims, of whatsoever kind, must now revert to the French nation, it will be of the utmost importance to ascertain from the original Dutch records, how far their territorial cessions and exclusive privileges do actually extend; also, how far these are absolute, and how far revocable. . . . The various groups of states, to which what may be emphatically termed our Malay policy may extend, are the following:

1st. The states of the Malay peninsula. 2d. The states of the Island of Sumatra. 3d. The states of the Island of Borneo. 4th. The states of the Sunda Isles, comprehending the chain of islands which extend from the Straits of Sunda to Timor and Celebes, exclusive of Java, which we may except for the present. 5th. The states of Celebes. 6th. The states of Sulu and Mindanawi. 7th. The states of the Moluccas, comprehending Ceram and Banda. 8th. The states of Jilolo, or Little Celebes. 9th. The Black Papua States of New Guinea, and the Papua Islands in its vicinity.

These states I shall only enumerate here, as requiring distinct reports on the nature of their connection with the Dutch, or, as we may now state it, with the French; after which, it will probably appear to be our soundest policy to form the most intimate connections, by treaty, with those which have indisputable pretensions to independence. This policy will, I flatter myself, appear obvious, whether we contemplate the maintaining the Malay isles in permanent possession, or the possible transferring of the Dutch possessions to the enemy in the event of a peace in Europe: in the event of the first alternative, it will enable us to turn these possessions to the greatest advantage, whether a respect be had to our European trade, or the general benefit of our Indian possessions. In the event of the second, we shall secure such a footing among the Eastern Isles, and such a favourable regard among the bravest races, as will baffle all the attempts of the enemy to dislodge us. By fixing ourselves in Banca, Bali, Celebes, and Jilolo, we should have a chain of posts which would prevent the enemy entirely from attaining very formidable power, or deriving his former advantages from the possession of Java and the Moluccas; and by forming a settlement in Borneo, connected with the interior of that country, so fertile, and so rich in the precious metals, we should soon be in a condition to compete with them on equal terms. The whole of the states which I have now specified have been so much accustomed to European interference and control, that the greater part of them are by no means fitted for the enjoyment of a fair and liberal independence, nor are they likely to become so for a series of years. At the

same time, the treatment which they have experienced from the Dutch has been in general so extremely galling and oppressive, that a more liberal policy can hardly fail of conciliating their affections in a high degree; sufficiently conscious of their inability to stand alone, and warned by the breaking up of some of the oldest and most powerful states, they would gladly ally themselves to so powerful a nation as the English on anything like fair and equitable terms, by which they might be secured from civil commotions and the oppression of foreigners, without being deprived of all their natural advantages, as under the Dutch domination. Now, as our principal political embarrassment with regard to Java and the Eastern Isles arises from the danger of these being given up to the enemy, in the event of a peace in Europe, I beg leave to suggest to your Lordship a method of avoiding a part of this danger, which by no means appears impossible, or even arduous to carry into execution, though it is not likely to occur to the Malay chiefs, unless it should be suggested to them. . . .

[Raffles proposes that the various Malay sultans and rajahs should be invited to invest the Governor-General of India in the ancient title of *Bitara* or Lord Protector, once held by a powerful Javanese dynasty. This would confer a general right of superintendence 'and might be so limited by treaty as to remove any occasion of suspicion from the native powers'.]

36

CABINET MEMORANDUM ON THE MARITIME PEACE

26 December 1813[1]

. . . Great Britain has declared her disposition with certain exceptions to sacrifice these conquests for the welfare of the Continent, being desirous of providing for her own security by a common arrangement, rather than by an exclusive accumulation of strength and resources. Her object is to see a maritime as well as a military Balance of Power established amongst the Powers of Europe, and as the basis of this arrangement she desires to see the independence of Spain and Holland as maritime Powers effectually provided for. Upon the supposition that these two objects shall be obtained in the proposed arrangements, that the limits of France shall be reduced within proper bounds, and that the peace of the Continent shall be secured by an amicable understanding between the Allies, Great Britain will then be prepared also to return within corresponding limits and to throw her acquisitions into the scale of the general interests.

As nothing is yet defined with precision either as to the state of the enemy's limits nor as to that of the Allies, it is impossible to do more than state on the part of Great Britain the nature and extent of concession she would be prepared to make upon given data as to the

[1] F.O.92/1. Printed in C. K. Webster, *British Diplomacy, 1813–1815*, Lond. 1921, p. 126. This was a supplement to the memorandum drawn up as instructions for Castlereagh by the Cabinet at a meeting when he was present.

continental arrangement. The object will best be effected by stating what the maximum of concession might be on the part of Great Britain upon assuming the reduction of France within her ancient limits, and the Allies having amicably arranged their own state of possession. In developing this subject it is desirable to state, 1st, the classes into which the conquests made by Great Britain resolve themselves, and 2ndly, the principles upon which the British Government is disposed to govern its decision with respect to their restitution.

With respect to the latter point they do not desire to retain any of these colonies for their mere commercial value—too happy if by their restoration they can give other States an additional motive to cultivate the arts of peace. The only objects to which they desire to adhere are those which affect essentially the engagement and security of their own dominion. . . .

37

LORD CASTLEREAGH TO LORD LIVERPOOL

19 April 1814[1]

. . . With respect to our own peace, I consider Malta, the Cape, Mauritius, and Tobago, as *sine qua non*; also the regulations limiting the French to a commercial occupation of their factories in the East Indies. I should wish, as at present circumstanced, not to press the Saintes. It is not worth swelling the catalogue with a demand of this nature. It is easily reduced, at the outset of a war, and will not be strengthened by the Bourbons: their finances for years will be deplorably deranged. They have an army of officers to pension, and will find it difficult to keep things going. Points may occur in the discussions upon which I can refer, but I wish to know your wishes as to the spirit in which we should conduct ourselves. I am myself inclined to a liberal line upon subordinate questions, having secured the Continent, the ancient family, and the leading features of our own peace. Let me have an answer to this as soon as you can.

P.S.—I still feel great doubts about the acquisition in sovereignty of so many Dutch colonies. I am sure our reputation on the Continent, as a feature of strength, power, and confidence is of more real moment to us than an acquisition thus made. The British merchants ought to be satisfied, if we secure them a direct import. Holland cannot well refuse this, nor Sweden, if she acquires Berbice, which ought to satisfy. More than this, I think Holland ought not to lose, even though compensated on the side of the Netherlands.[2]

[1] C. K. Webster, op. cit., p. 178. Robert Stewart, *Viscount Castlereagh*, had been Secretary of State for War and the Colonies under Pitt in 1805 and Lord Portland in 1807. In February 1812 he became Foreign Secretary under Perceval and retained the office under Robert Jenkinson, the second *Lord Liverpool*.

[2] The Convention between Britain and the Netherlands (13 August 1814) is printed in C. Clementi, *A Constitutional History of British Guiana*, Lond. 1937, p. 425.

38

SIR STAMFORD RAFFLES: BRITISH INTERESTS IN THE EASTERN ARCHIPELAGO, 1817[1]

. . . By far the largest and most valuable share of this commerce is in a great measure at the disposal of the power in possession of Java, Banca and the Moluccas and the other colonies and establishments surrendered to the Dutch; it constitutes perhaps two-thirds of the whole. Of the next a considerable portion perhaps a sixth of the whole is at the disposal of Chiefs who have at some time or other bound themselves by Treaty to admit none but the Dutch to the benefit of it. The present validity of most of these Treaties however may be well contested by the British Government. The remaining sixth of the whole commerce is unquestionably open to competition. I shall therefore call it the independent trade.

The foreign trade of the Archipelago has from the earliest period been carried on at certain emporia whither the produce of the Islands is brought by Chinese, Arab, and native traders. Acheen, Malacca, and Bantam were the principal emporia when Europeans first visited the East. The Dutch in their more prosperous times forced most of the trade to Batavia which thus became the principal emporium of the Islands, but the unhealthiness of the place and the impolicy of the Dutch had so lowered this port in the estimation of the native traders that in the year 1790 a large portion of it was removed to the native port of Rhio and the English having opened friendly communications with the different Chiefs of the other Islands of the Archipelago traded to their ports direct. From the occupation of Malacca by the British troops in 1795, the English may be considered to have enjoyed nearly all the northern trade of the Archipelago and by their clandestine trade with Batavia and the Moluccas to have obtained at least an equal share of the limited trade then attempted to be carried on by the Dutch. As the trade of the Dutch still further declined that of the English increased until on the conquest of Java in 1811 the whole fell into their hands. . . .

This leads me to the second measure which I propose for the protection of our commerce in the Eastern Archipelago against the power of the Dutch to exclude us from it, vizt. our taking immediate possession of a port in the Eastern Archipelago, the best adapted for communication with the native princes, for a general knowledge of what is going on at sea and on shore throughout the Archipelago, for the resort of the independent trade and the trade with our Allies, for the protection of our commerce, and all our interests and more especially for an entrepôt for our merchandise.

[1] *Bexley Papers*, B.M. Add. MSS. 31,237, ff. 244–57 *passim*. A paper for Canning; copy enclosed in Raffles to Vansittart, 23 October 1817.

The only two stations which we possess in the neighbourhood of the Archipelago vizt. Bencoolen and Prince of Wales Island, are far too remote from the scene to answer any of these purposes. The former is on the western coast of Sumatra out of the reach of the native trade of the Archipelago, and independent of this disadvantage, from the nature of the coast, and the occasional violence of the sea and surf, not to be approached by the native craft without great danger of loss. The latter is situated considerably to the northward of Malacca and though to be approached with safety by native vessels is so distant from the principal native ports of the Archipelago, that under the uncertainty of the passage up the Straits, but few native vessels are induced to go there: for the small portion of the trade it has hitherto enjoyed it was chiefly indebted to the temporary possession of Malacca where heavy duties were imposed in order to force the trade up. . . .

The station which I would recommend if obtainable is the Island of Banca. Till its late surrender it had been exclusively British. The Dutch flag had never been hoisted there. The population had accumulated under the British alone to the amount of at least 10,000 souls. The tin mines, the most valuable and productive in the world, afforded a large surplus revenue. Considerable sums had been expended on it. It possesses a noble harbour, good roadstead and lies in the direct passage between the Straits of Sunda and Malacca.

Could this Island be purchased out of the very heavy sum of money due by the Dutch Government to the East India Company in balance of the accounts of Java, it would very soon pay the cost. . . .

Next to Banca the Island of Bintang at the extremity of the Malay Peninsula appears to be possessed of the largest share of those advantages which should be sought in such a station.

The Dutch had formerly a factory on this Island at Rhio which was destroyed in 1795. Ever since then it has been under the independent sovereignty of the Sultan of Lingen from whom it is probable that either the Island itself or permission to establish a factory upon it might be obtained on terms similar to those on which we hold Prince of Wales Island. It possesses one of the best harbours in the eastern seas, a considerable population (not less than 10,000 souls) and is perhaps more favourably situated for a general commercial entrepôt than Banca. It is now the general resort of pirates and smugglers, and the circumstance of its being the principal station of the Arab and Bugis traders on the western side of the Archipelago is a proof of the facilities which it possesses for trade. It would be a commercial station for communication with the China ships passing either through the Straits of Sunda or Malacca, completely outflank Malacca and intercept its trade in the same manner as Malacca has already intercepted that of Prince of Wales Island. . . .

Should difficulties occur in the attainment of this station, the western coast of Borneo has also many recommendations particularly

the immediate vicinity of Sambas and Pontiana, inland of which are the principal gold mines now worked on Borneo and a Chinese population of not less than 100,000 souls. Off this part of the coast of Borneo there is a small Island affording between itself and the main Island a very good harbour which has been surveyed.

As the object of the British Government is not extension of territory and as it would depend for the maintenance of its relations with the native States rather upon the respect with which the national character is received by those States and an adequate naval force, than on a military power, a military force merely sufficient for the respectability of the flag and the security of the station is all that would be required. Indeed it would be desirable to demonstrate to the native States as well as to the Dutch that the object of such an establishment is not dominion. It is not likely that a force exceeding five hundred men would under any circumstances be required, or that the expense would be greater than what has been incurred at Malacca and Padang (a Dutch dependency on the west coast now transferred) for the last twenty years. No new expense or increase of establishment is therefore to be calculated upon, as this measure may in fact be considered a simple transfer of those establishments. Both Prince of Wales Island and Bencoolen have long been losing establishments, the former to the amount of £80,000 a year and the latter of £50,000 a year, and now that Malacca and Padang are restored to the Dutch must prove still more so as those dependencies were by far the most valuable trading ports of those two settlements. By an eventual reduction of these establishments to a scale which will admit of their paying their own expenses and connecting them with such a station as I have proposed within the Archipelago, they might mutually assist each other and become a source of wealth and power. The question seems now to be whether the East India Company are content to maintain these two losing establishments in the eastern seas by continuing the present system, or whether they will by a small outlay and the acquisition of a third station within the Archipelago attempt the only feasible means in their power of removing the incumbrance. . . .

Another collateral advantage of an establishment such as I have been recommmending consists in the means it would afford of protecting our commerce against pirates, whose haunts we should be better able to learn and whose purposes to counteract: another is the wholesome restraint it would impose upon the conduct of our own countrymen trading in the Archipelago. Our duty to other nations and to the cause of justice, no less than a regard for our national character, requires that the peaceable natives of the Islands should not be left at the mercy of every mercantile adventurer of our own nation. The inducements and facilities to rapine are too numerous in that quarter to be overlooked.

Another collateral advantage is in the means we should acquire of

maintaining those measures the British Government had taken, not altogether without success, for the abolition of the Slave Trade in the Archipelago and in fostering the growth of industry and civilization among the tribes which have so long been detained in barbarism by that odious commerce.

Should the attention of the British Government be directed to the importance of civilizing Borneo or of a trade with Japan: should the independent principles now prevalent in South America extend to the Philippine Islands, and an opportunity be offered of instituting advantageous communication with them, such an establishment as I propose would afford important facilities, and in the meantime it would enable us to collect such information as might direct our judgment on all these points. . . .

If we much longer postpone demanding that the engagements which we contracted as Governors of Java and its dependencies shall be fulfilled by the Dutch, and that the relations with the native princes, whether of alliance or independence which we have recognized while we ruled in those seas shall be maintained by our successors, our silence will be construed into an abandonment of our right to speak. We shall strengthen what appears to be the best objection that can at present be made to such a claim, vizt. that it comes too late, that the Dutch have already pledged themselves to the contrary and cannot retract, especially at our suggestion, without disgrace.

Again the impression of British generosity in surrendering the Dutch colonies at all is rapidly subsiding, as is also among the native Chiefs the impression of our power, and it is clear that with respect to taking possession of a vacant port, or making a Treaty for privileges with an independent Chief, the prize is to the swiftest. . . .

39

JOHN ADAM TO SIR STAMFORD RAFFLES

5 December 1818[1]

[Council Chamber.]

HONOURABLE SIR,

Since the Instructions contained in my letter of the 28th ultimo were presented, it has occurred to the Governor-General in Council that in the event of the previous occupation of Rhio by the Dutch, or other circumstances preventing the accomplishment of our views at that port and at Lingen, it might be expedient to endeavour to establish a connection with the Sultan of Johor on the same footing as is now contemplated with Rhio and Lingen.

[1] Bengal Secret Consultations, vol. 307. Printed in D. C. Boulger, *Life of Sir Stamford Raffles*, Lond. 1897, p. 301. *J. Adam* was Chief Secretary to the Government of India. He was later Private and Political Secretary to Lord Hastings, and acting Governor-General for a somewhat stormy seven months on Hastings's departure in 1823.

2. The position of Johor renders it nearly, or perhaps entirely, as convenient a post for our purpose as Rhio; but the imperfect information possessed by the Government, both of the local circumstances of the town and harbour and the condition and relations of the State of Johor, induce the Governor-General in Council to prefer a connection with the Chief of Rhio, and his immediate superior, the Rajah of Lingen, if it be practicable. For the same reason it will be incumbent on us, even if we find ourselves excluded from the latter, to act with caution and circumspection before we enter into any engagements with a State of which we know so little as Johor.

3. It will be necessary therefore, in any event, to make a previous inquiry with a view to obtain correct information on the following points:—

1st. The local capabilities of Johor for a British port, such as we are desirous of establishing at the mouth of the Straits of Malacca; the extent and capacity of the harbour, means of supply, and other points of this nature.

2nd. The actual political condition and relations of the State of Johor, the degree of independent authority exercised by the Chief—his power of maintaining any engagements which he may contract, his relations with other States, especially the Dutch settlement at Malacca, and the Government of Siam. There is some reason to think that the Dutch will claim authority over the State of Johor by virtue of some old engagements, and, though it is possible the pretension might be successfully combatted, it will not be consistent with the policy or present views of the Governor-General in Council to raise a question of this sort with the Netherlandish authorities. You are aware also of the considerations which make the Governor-General in Council reluctant to engage in any measures that would bring us into collision with the Government of Siam.

4. In the event of our views at Rhio and Lingen being unattainable, and of the information you may procure concerning Johor being entirely satisfactory on the points above adverted to, you will be pleased to open a negotiation with the Chief of Johor, and carry into effect at that place an arrangement similar to the one at present contemplated at Rhio.

5. In the contemplation of your having recourse to this measure, a letter has been addressed to the Chief of Johor by the Governor-General, and amended credentials comprehending that State have been prepared. You will receive both those documents from the Persian Secretary, and will make use of them according to your discretion in the case, and under the reservations stated in this letter.[1]

[1] A minute (2 January 1819) by Lord Hastings in the same volume of Consultations discussed the need of 'the indisputable authority of the Straits of Malacca and Singapore' as 'a necessary counterpoise at all times to . . . the Dutch'. He would seem to have favoured Rhio or Achin.

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SIR STAMFORD RAFFLES TO COLONEL ADDENBROOKE, 10 June 1819[1]

Singapore.

MY DEAR COLONEL,

You will probably have to consult the map in order to ascertain from what part of the world this letter is dated. . . .

I shall say nothing of the importance which I attach to the permanence of the position I have taken up at Singapore: it is a child of my own. But for my Malay studies I should hardly have known that such a place existed: not only the European, but the Indian world was also ignorant of it.

I am sure you will wish me success; and I will therefore only add that if my plans are confirmed at home, it is my intention to make this my principal residence, and to devote the remaining years of my stay in the East to the advancement of a colony which, in every way in which it can be viewed, bids fair to be one of the most important, and at the same time one of the least expensive and troublesome, which we possess. Our object is not territory, but trade; a great commercial emporium, and a *fulcrum*, whence we may extend our influence politically as circumstances may hereafter require. By taking immediate possession, we put a *negative* to the Dutch claim of exclusion, and at the same time revive the drooping confidence of our allies and friends. One free port in these seas must eventually destroy the spell of Dutch monopoly; and what *Malta* is in the West, that may *Singapore* become in the East. . . .

41

SIR STAMFORD RAFFLES: BRITISH COMMERCIAL POLICY IN THE EAST INDIES, 1819[2]

. . . The subject naturally divides into three heads, which will be considered in succession.

1. The high importance of our connection with these countries, whether considered with reference to the national interest in general, or to those of British India in particular.

[1] *Memoir of Sir T. S. Raffles*, by his widow, p. 379. *Colonel Addenbrooke* was late equerry to H.R.H. Princess Charlotte. In his report to Adam on 13 February 1819 (Bengal Secret Consultations, vol. 308) Raffles declared that the occupation of Singapore had destroyed the political importance of Malacca: it had paralysed all hostile plans 'for the exclusion of our commerce and influence with the Malay States'. 'The spell is broken and one independent port under our flag may be sufficient to prevent the recurrence of the system of exclusion and monopoly which the Dutch once exercised in these seas and would willingly re-establish.'

[2] *Memoir of Sir T. S. Raffles*, by his widow, Appendix, pp. 11–17.

2. The nature of our connection is and ought to be purely commercial, and our interference politically no further extended than to secure the general interests of that commerce.

3. The object of our connection being purely commercial, our establishments should be conformable, and our relation with the native states conducted exclusively on that principle.

On the first point it would be superfluous, after what has been said, to enter on further discussion. The importance of the connection is great and obvious, and is generally admitted; but it is impossible to pass over without some notice the peculiar and additional interest which recent events have given to our relation with the Eastern Islands. The supremacy of Great Britain having now been established over the whole of the continent of India, and our empire consolidated by the late territorial acquisitions, and by the liberal principles and enlightened policy which have raised it to its present pitch of unrivalled eminence and prosperity, it remains for the wisdom which accomplished these to draw forth and develop the resources of the country, and to open and secure the channels through which they must flow. To insure a market for the manufactures of India, and thus promote its industry and prosperity, and give an advantageous and beneficial direction to the energies of its people, becomes an object of great and increasing importance. The extraordinary advance of British manufactures having in a great measure excluded those of India from the European market, it is to the populous and less civilized countries of the further east that we can alone look for a permanent demand. It is on these countries that India has always depended for the consumption of her opium and piece-goods, and the demand for them, even under the unfavourable circumstances which have hitherto attended the trade, has been always on the increase. The consequences which would attend the loss of this trade, limited as it now is, are too obvious to require explanation, and the security and improvement of it are in consequence most intimately connected with the prosperity of our Indian empire, and essential to the attainment of the full benefits and eventful results of our late great and unparalleled success.

On the second point, that our connection should be confined to purely commercial objects, it may be necessary to make a few observations. The extent and high value of our possessions in India renders the acquisition of further territory, particularly in new and less civilized countries, comparatively unimportant, and perhaps objectionable. The only position that might have been valuable to us in this point of view has been transferred to another power; and although other European nations might find their interest in colonizing, it would perhaps neither suit the finances or policy of Great Britain to make the outlay, or involve itself in the necessary difficulties of the undertaking. The paramount importance of our commerce, and of securing its interest, being admitted, it is to this object that our policy should

be steadily directed. It will therefore be essential to our interests to acquire and maintain such an influence in the countries in question, as shall best secure this object, without involving ourselves in extensive establishments and local difficulties and disputes, which might distract our attention, and divert us from our proper and more immediate interests.

On the third point, enough has been said to show the fallacy of conducting our establishments on any other than purely commercial principles. The effects of a contrary line of policy have been exemplified in the ruinous losses and entire failure of all other plans. It has been shewn that the establishment of Penang failed in its object from this cause, and the same observation applies to Bencoolen. Of the latter it may be observed, that although the object was professedly commercial, the deviations in practice from what may be considered the true commercial spirit, were such as to defeat itself and entail poverty and ruin on the country. The true and vivifying spirit of commerce is one which tends as much to raise and excite the energies of the cultivator who sells, as to promote the interest of the merchant who buys, and is directly opposed to that system of forced cultivation and undue monopoly, which while it destroys every motive to exertion, must eventually defeat the object of those by whom it is enforced, and thus, even as a simple matter of calculation, turn to the loss of both parties.

On these general principles we proceed to the consideration of the nature, extent, and definite objects of the establishments we may form.

Having shewn that trade, and not territory, is our object, and that this trade is intimately connected and interwoven with the interests of British India, it is of the first importance that the nature of this commerce, and the principles on which it can alone be secured and extended, should be clearly understood. Our establishments should be directed to no partial or immediate views of commercial profit, but to the preservation of a free and unrestricted commerce, and to the encouragement and protection of individual enterprise and the interests of the general merchant. The advantages of these establishments are not to be sought in the columns of a debtor and creditor account, but are to be felt in a wider sphere than can be subjected to ordinary rules of calculation, in the general diffusion of a spirit of industry and enterprise, and in the far-spread benefits which flow from the extension of our general trade and resources. It has been from the enterprise of individuals that India has hitherto derived advantages in this commerce, and it is to this alone she can look for their continuance and improvement. It is to the general trade of India that we must look for the effects and benefits of our more Eastern establishments, and not to the local and comparatively insignificant resources of any particular settlement, which should never be allowed for one moment to

weigh against the higher and more general interests at stake. We should consider what may be the real value to us of this general trade, and what we can afford to pay for its security and improvement. We must look upon all establishments to the eastward as an outlay for these purposes, and these purposes alone. Our establishments should be looked upon as so many outposts or stations erected for the convenience and security of our general commercial interests, and not as governments intended for the rule and detailed management of a dominion.

It follows that the economy of these establishments is to be sought in their fitness for the objects intended: they should neither be too large and weighty, as at Penang; nor so confined as to affect their efficiency, and thus defeat their object. Wherever the British flag is raised, it should be adequate to afford the full measure of its protection. The establishments should be respectable, and such as to be consistent with our national character, and the promptitude and efficiency of the public service. . . .

The political duties are of a more extensive and different nature. They will comprise the maintenance of a due influence among the native states, and such an interference in each, as may tend to secure the British interests and remove obstructions in the way of a free commercial intercourse with them. It will be an object to avoid all interference which may involve our Government in their internal disputes, at the same time that we cultivate and improve our connection with them by all the influence and support that they can reasonably look for from a powerful ally and protecting authority. Our own interests are so manifestly connected with the advancement and improvement of the native states, that it is obvious we can have no views which are not equally to their advantage, and our interference is in consequence more likely to be invited than looked upon with jealousy and distrust. On the same principle that we consult our general interests by fostering and promoting the individual enterprise of our own traders by giving them the utmost freedom in their speculations, we shall, on a wider and more extensive field, advance our higher political interests, by encouraging and improving the energies and resources of these states, by upholding their independence, and strengthening their power and importance. Our interference is not intended to depress but to raise these states, and by the establishment of a free and unrestricted commercial intercourse, to draw forth their resources while we improve our own. . . .

42

THE COURT OF DIRECTORS OF THE EAST INDIA COMPANY TO THE GOVERNOR-GENERAL, BENGAL

7 April 1829[1]

Our serious attention having been given to the charge of maintaining the Incorporated Settlements of Prince of Wales Island, Singapore and Malacca, we proceed to communicate to you the opinions which we have formed of the practicability and expediency of effecting an important reduction in that branch of expenditure.

When it was determined many years since to constitute Prince of Wales Island a separate Presidency it was in contemplation not only to form that island into a marine station for the rendezvous, refitting and supply of His Majesty's squadrons in the eastern seas, but also to make it a naval arsenal for the building of ships for the Royal Navy. These objects may now be considered as abandoned and with regard to political or commercial benefits resulting either to Great Britain or to India from the tenure by us of Prince of Wales Island, Singapore and Malacca, we consider that those benefits may be effectually secured by an administration of the settlements upon a very reduced scale and that such an alteration need not interfere with the sources or amount of revenue now collected.

We have therefore come to the resolution of putting these three settlements on the footing of Residencies subject to your Government and we desire that you take immediate measures for that purpose.

We presume that the facility and quickness of steam will enable you to exercise a direct control over the proceedings of the several Residents. If however upon reflection you should consider that it would be a preferable arrangement to combine the administration of the three settlements in one Chief Resident with a suitable number of Assistants you have our authority to do so.

It will we think be desirable at once to name a date (and the 1st May 1830 appears to be a suitable period) at which the Government as now constituted shall cease to exercise its function and when the local authority of each of the three settlements shall vest in a Resident to be appointed by the Government at Bengal to whom the Residents are to be subject. . . .

[1] *Journal of the Malayan Branch, Royal Asiatic Society*, vol. xxiii, Singapore 1950, part 2, p. 189. Lord William Cavendish Bentinck was Governor-General.

II

CONSTITUTIONAL DEVELOPMENTS

A. THE ORIGINS AND EVOLUTION OF CROWN COLONY GOVERNMENT

1

LORD MANSFIELD'S PROPOSITIONS *RE* CAMPBELL *VERSUS* HALL, 1774[1]

. . . A great deal has been said, and authorities have been cited relative to propositions in which both sides exactly agree, or which are too clear to be denied. The stating of these will lead us to the solution of the first point.

I will state the propositions at large:

1. A country conquered by the British arms becomes a dominion of the King in the right of His crown, and therefore necessarily subject to the legislative power of the Parliament of Great Britain.

2. The conquered inhabitants once received into the conqueror's protection become subjects; and are universally to be considered in that light, not as enemies or aliens.

3. Articles of capitulation, upon which the country is surrendered, and treaties of peace by which it is ceded, are sacred and inviolate, according to their true intent and meaning.

4. The law and legislation of every dominion equally affects all persons and property within the limits thereof, and is the true rule for the decision of all questions which arise there. Whoever purchases, sues, or lives there, puts himself under the laws of the place, and in the situation of its inhabitants. An Englishman in Ireland, Minorca, the Isle of Man, or the Plantations, has no privilege distinct from the natives while he continues there.

5. The laws of a conquered country continue in force until they are altered by the conqueror. The justice and antiquity of this maxim are incontrovertible; and the absurd exception as to pagans mentioned in Calvin's case shows the universality and antiquity of the maxim. That exception could not exist before the Christian era, and

[1] Printed in A. Shortt and A. G. Doughty, *Documents relating to the Constitutional History of Canada, 1759–1791*, part i, Ottawa 1918, pp. 525–6. *Campbell*, a British settler in Grenada, brought an action against *Hall*, a customs official, for the recovery of money collected under the authority of Letters Patent of April 1764 on sugar exported from the island. *Lord Mansfield*, C.J., delivered judgement in Campbell's favour because he held that, by a Proclamation of October 1763, the Crown had exhausted its prerogative right to levy such a tax without the consent of a local Assembly, which had been promised by that Proclamation.

in all probability arose from the mad enthusiasm of the Crusades. In the present case the capitulation expressly provides and agrees that they shall continue to be governed by their own laws, until His Majesty's pleasure be further known.

6. If the King has power (and, when I say 'the King', I mean in this case 'the King without the concurrence of Parliament') to alter the old and to make new laws for a conquered country—this being a power subordinate to His own authority as a part of the supreme legislature and parliament—He can make none which are contrary to fundamental principles, He cannot exempt an inhabitant from the laws of trade, or the authority of Parliament, or give him privileges exclusive of His other subjects; and so in many other instances that might be put. . . .

2

THE QUEBEC ACT, 14 Geo. III, cap. LXXXIII (sect. 12–18)

An Act for making more effectual Provision for the Government of the Province of Quebec in North America.

[Provision is made for the extension of the boundaries of Quebec into the area of the Mississippi and Ohio, for the free exercise of the Roman Catholic religion and the security of property held in *seigneurie*, and for the establishment of English criminal law.]

. . . And whereas it may be necessary to ordain many regulations for the future welfare and good government of the province of Quebec, the occasions of which cannot now be foreseen, nor, without much delay and inconvenience, be provided for, without entrusting that authority, for a certain time, and under proper restrictions, to persons resident there: and whereas it is at present inexpedient to call an Assembly; be it therefore enacted by the authority aforesaid, that it shall and may be lawful for His Majesty, His heirs and successors, by warrant under His or their signet or sign manual, and with the advice of the Privy Council, to constitute and appoint a Council for the affairs of the province of Quebec, to consist of such persons resident there, not exceeding twenty-three, nor less than seventeen, as His Majesty, His heirs and successors, shall be pleased to appoint; and, upon the death, removal, or absence of any of the members of the said Council, in like manner to constitute and appoint such and so many other person or persons as shall be necessary to supply the vacancy or vacancies; which Council, so appointed and nominated, or the major part thereof, shall have power and authority to make Ordinances for the peace, welfare, and good government of the said province, with the consent of His Majesty's Governor, or, in his absence, of the Lieutenant-Governor, or Commander in Chief for the time being.

Provided always, that nothing in this Act contained shall extend to authorize or empower the said Legislative Council to lay any taxes or duties within the said province, such rates and taxes only excepted as the inhabitants of any town or district within the said province may be authorized by the said Council to assess, levy, and apply, within the said town or district, for the purpose of making roads, erecting and repairing public buildings, or for any other purpose respecting the local convenience and economy of such town or district.

Provided also, and be it enacted by the authority aforesaid, that every Ordinance so to be made shall, within six months, be transmitted by the Governor, or, in his absence, by the Lieutenant-Governor, or Commander in Chief for the time being, and laid before His Majesty for His royal approbation; and if His Majesty shall think fit to disallow thereof, the same shall cease and be void from the time that His Majesty's Order in Council thereupon shall be promulgated at Quebec.

Provided also, that no Ordinance touching religion, or by which any punishment may be inflicted greater than fine or imprisonment for three months, shall be of any force or effect, until the same shall have received His Majesty's approbation.

Provided also, that no Ordinance shall be passed at any meeting of the Council where less than a majority of the whole Council is present, or at any time except between the first day of January and the first day of May, unless upon some urgent occasion, in which case every member thereof resident at Quebec, or within fifty miles thereof, shall be personally summoned by the Governor, or, in his absence, by the Lieutenant-Governor, or Commander in Chief for the time being, to attend the same.

And be it further enacted by the authority aforesaid, that nothing herein contained shall extend, or be construed to extend, to prevent or hinder His Majesty, His heirs and successors, by His or their Letters Patent under the Great Seal of Great Britain, from erecting, constituting, and appointing, such Courts of criminal, civil, and ecclesiastical jurisdiction within and for the said province of Quebec, and appointing, from time to time, the judges and officers thereof, as His Majesty, His heirs and successors, shall think necessary and proper for the circumstances of the said province.

Provided always, and it is hereby enacted, that nothing in this Act contained shall extend, or be construed to extend, to repeal or make void, within the said province of Quebec, any Act or Acts of the Parliament of Great Britain heretofore made, for prohibiting, restraining, or regulating, the trade or commerce of His Majesty's colonies and plantations in America; but that all and every the said Acts, and also all Acts of Parliament heretofore made concerning or respecting the said colonies and plantations, shall be, and are hereby declared to be, in force, within the said province of Quebec, and every part thereof.

3

QUEBEC: ADDITIONAL INSTRUCTIONS TO GOVERNOR FREDERICK HALDIMAND, 29 March 1779[1]

. . . Whereas by the second article of Our Instructions to you the Governor of Our province of Quebec, We have thought fit to direct that any five of the members of Our Council for that province shall constitute a Board of Council for transacting all business, in which their advice and consent may be requisite, Acts of Legislature only excepted, in which case you are not to act without a majority of the whole. And whereas it is highly fitting and expedient that no misrepresentation of Our royal will and pleasure in this instance should continue or obtain, We do hereby direct and require that this article shall not be understood to delegate authority to you Our Governor to select and appoint any such persons by name as you shall think fit to make such quorum, terming the same a Privy Council, or to excuse you from summoning to Council all such thereunto belonging as are within a convenient distance.—On the contrary that you do take especial care to preserve the constitution of Our said province free from innovation in this respect, to which intent you shall communicate this Our royal will and pleasure to Our said Council, that so the trusts, powers and privileges which we have thought fit to vest in them by Our general Instructions may by this express signification of Our purpose, be in future ascertained and confirmed.

4

GRENADA: HENRY DUNDAS TO LIEUT.-GOVERNOR NINIAN HOME, 5 October 1792[2]

. . . The present situation of the Assembly of the Island of Grenada is an object that next claims your particular attention. From the enclosed, and other representations which I have received, as well as of the temper and dispositions of that body, as of the general wishes and desires of the inhabitants, it is judged expedient that you should dissolve the present, and call a new Assembly, in order to give energy to the different branches of the Legislature, and to cultivate that harmony between them which is so essential to the prosperity of the country and to His Majesty's interests. In taking this step you will be guided as to the time, by an attention to the convenience of the

[1] Printed in Shortt and Doughty, part ii, pp. 704–5. (*Sir*) *Frederick Haldimand* was a Swiss soldier of fortune who had distinguished himself in the Seven Years War. He had been appointed to succeed Sir Guy Carleton as Governor of Canada in 1778.

[2] C.O. 102/16, pp. 86–89. *Ninian Home* was Lieut.-Governor during an anxious and turbulent period and he was killed in 1795 in an attack upon a camp of French insurgents.

inhabitants, and the internal tranquillity of the island. In reference to this point, it seems a necessary step, previous to the said dissolution, that the island, should as far as possible be freed from all strangers of the description I have before alluded to.

There is likewise another point of great importance, which is immediately connected with the election of a new Assembly, I mean the question whether a limited number of His Majesty's new Roman Catholic subjects are eligible by virtue of the late General Instructions.[1]

In consequence of the memorials which have been presented from those of that persuasion, the subject has met with a very serious and deliberate consideration, and the opinions of His Majesty's Law Officers have been taken thereupon; the result of those opinions, under all the existing circumstances, is, that as the Instructions of His Majesty subsequent to His primary Instructions, given in 1763, cannot operate in contradiction to the latter, so the limited privilege, intended by those subsequent Instructions to be granted to the Roman Catholics, cannot take effect, because it militates against the primary Instructions and Commission, in setting aside what is therein made a necessary qualification to sit in the Assembly—vizt. the making and subscribing the declaration against transubstantiation etc.

There is also another point, which in consequence of representations from Grenada has been duly considered, that is the pretended claim of the King's Roman Catholic subjects to the churches and the property thereto appurtenant within the island. The manifest devolution to His Majesty of the churches and other appendant property with the rest of the island, (there being no reservation in their behalf) renders the question too clear to admit of any doubt independent of the concurring opinion of His Majesty's Law Officers on that subject.

I cannot conclude my letter without bespeaking your attention at all times to two leading objects—First a general system of economy, in all the branches of the executive Government under your inspection and control. Secondly, an uniform and assiduous endeavour to cultivate a mutual good understanding between the Assembly and the executive Government. An open and manifest attention to the interests of the island, to the expenditure of all monies granted by it, whether appropriated or not, and a readiness to lay all accounts before the Assembly, form the best and most prevailing claim to their confidence and liberality, and operate of themselves in rendering them less inclined to interfere with that branch of the executive authority which consists in the issuing of monies, for the payment of services, in all cases, whether such monies are appropriated or not . . . .

[1] In 1763 Governor Melville had required from members of the Assembly of Grenada the customary declaration against transubstantiation, thereby excluding the French from the Legislature, see *C.H.B.E.*, Camb. 1940, vol. ii, pp. 151–3.

5

SAN DOMINGO: INSTRUCTIONS TO GOVERNOR ADAM WILLIAMSON, 7 October 1794[1]

. . . 1st. With these Our Instructions you will receive Our Commission under Our Great Seal of Great Britain, constituting you Our Governor and Commander in Chief in and over such parts of the Island of St. Domingo as now do, or at any time during the continuance of your Government, shall belong unto Us, Our Crown and dignity. In the execution therefore of Our said Commission you are to take upon you the administration of the Government of such parts of the said Island so belonging to Us, as aforesaid, and to do and execute all things belonging to your command according to the several powers and authorities of Our said Commission under Our Great Seal of Great Britain, and of these Our Instructions to you, and according to such further powers and Instructions as you shall at any time hereafter receive under Our Signet and Sign Manual, or by Our Order in Our Privy Council.

2nd. And whereas certain articles of capitulation, copies of which are hereunto annexed, bearing date the third day of September 1793 were signed by Major General Williamson, and Monsieur de Charmilly, duly authorized for that purpose, it is Our will and pleasure that you should fulfil and cause to be fulfilled as far as in you lies, the several stipulations contained in the said articles, as well with respect to those parts of St. Domingo to which the said articles relate, as to all other parts of the said Island, which now are or shall be in Our possession.

3rd. And you are, as soon as convenient after your arrival within your said Government, to choose from amongst the proprietors of the three provinces, of which the same consists, a committe of six persons, who are to assist you in all the details of administration and police conformably to the stipulations in the 5th article of the said capitulation in this behalf. And you are hereby required to consult and advise with the said Commissaries, and in cases of importance, and where you shall judge that Our interests may require it, you are hereby authorized to act contrary to their opinion, calling upon them in such cases to state their opinions in writing, with their reasons for the same, and you are to transmit to one of Our Principal Secretaries

[1] C.O. 319/4, pp. 493–515. Pencil notes on this copy show that it was used for the draft of Macartney's Instructions on his appointment to the Cape (see *R.C.C.*, vol. ii, p. 3). They became the standard form for conquered colonies. *Major-General Adam Williamson* had served in America and the West Indies before being made Governor of Jamaica in 1790. Overtures were made to him by some San Domingo planters in arms against the French Revolutionary Government for British protection in 1791, but it was not until 1793 that he received discretionary powers from home to send a force to capture the island. Simcoe was sent by Pitt in 1796 with reinforcements. In 1798, however, the island was evacuated.

of State the opinions of the said Commissaries, together with your own opinion and your and their reasons on every such occasion for Our information; and you are further authorized from time to time to remove the said Commissaries, or any of them to be chosen by you as aforesaid in case you shall find it necessary for Our interests and the public service of the colony; and to choose others in their room, taking care nevertheless to assign and transmit your reasons for so doing by the next immediate opportunity to one of Our Principal Secretaries of State, for Our information. . . .

[He is to publish his Commission and to take the usual oaths.]

. . . And having taken the oaths, and made the declaration aforesaid, you are then to administer, or cause to be administered, the said oaths to such of the said Commissaries as are Protestants; but to such of the Commissaries as possess the religion of the Church of Rome, you are to administer, or cause to be administered, in the English or French language as the case may require, the oath prescribed in and by an Act of Parliament passed in the fourteenth year of Our reign, intituled, 'An Act for making more effectual provision for the province of Quebec in North America', and also the usual oath for the execution of their office, in lieu of all other tests and oaths whatsoever.

5. You shall also administer, or cause to be administered, the oaths appointed in the aforesaid recited Acts to all persons except as hereafter mentioned, that shall be appointed to hold or exercise any office, place of trust or profit, in such parts of the said island as now do or shall belong to Us as aforesaid, previous to their entering on the execution of the duties of such office; and you shall also cause them to make and subscribe the declaration mentioned in the aforesaid Act of the twenty-fifth year of the reign of King Charles the Second. But in cases where any such office, place of trust or profit, within such parts of the said island of St. Domingo as belong to Us, as aforesaid, shall be conferred on any of the inhabitants of the said colony who may profess the religion of the Church of Rome, you shall so often as any such person shall or may be admitted into any such office, place of trust or profit, administer or cause to be administered to him in the English or French language as the case may require, the oath prescribed in and by an Act of Parliament, passed in the fourteenth year of Our reign, intituled, 'An Act for making more effectual provision for the province of Quebec in North America', and also the usual oath for the execution of such office, place of trust or profit, in lieu of all other tests and oaths whatsoever.

6. It is Our will and pleasure, that for the present the civil administration of the colony, should as nearly as circumstances will permit, be exercised by you; in conformity to the ancient laws and institutions that subsisted within the same, previous to the year 1789, subject

to such directions as you shall now or hereafter receive from Us under Our Signet, or Sign Manual, or by Our Order in Our Privy Council, or to such sudden or unforeseen emergencies as may render a departure therefrom absolutely necessary and unavoidable, and which you are immediately to represent to one of Our Principal Secretaries of State for Our information. But it is nevertheless Our especial command that all the powers of the executive Government within the said colony, as well civil as military, shall be vested solely in you Our Governor, or in the person having the Government of the said colony for the time being, and that such powers as were heretofore exercised by any person or persons separately or in conjunction with the Governor of the said colony shall belong solely to you, Our Governor, or to the person having the Government of the said colony for the time being: and it is Our will and pleasure that all such public Acts and judicial proceedings which before the year 1789 were in the name of His late Most Christian Majesty shall henceforth be done, issued and performed in Our name.

7. You are to take especial care that all the British laws of trade and navigation, as far as the same relate to any commercial intercourse between the said colony and Our dominions and all other countries, be strictly observed, excepting only as far as it may be necessary that the same should be for the present dispensed with, for the re-establishment of the said colony, under the circumstances expressed in the 12th article of the annexed capitulation; and for the better execution of this Our Instruction, it is Our will and pleasure, that the powers exercised by the officers of the French Admiralty Courts, previous to the year 1789, although the same may not have been usually exercised by the officers of Our Court of Admiralty, to be established as hereinafter mentioned, may for the present be exercised under your authority by the naval officer or officers for the time being appointed for that purpose.

8. It is Our will and pleasure that the Courts of Judicature which subsisted in the said colony, previous to the year 1789, shall for the present be continued, in the exercise of all the judicial powers belong[ing] to them in all criminal and civil cases; and that they shall proceed according to the laws by which the said colony was then governed; such judicial powers nevertheless as, previous to the year 1789, were exercised by the Governor or Intendant of the said colony, jointly or separately, or by the French Admiralty Courts, shall devolve on and be exercised by the aforesaid Courts of Civil Judicature, or such of them as shall be found best adapted for that purpose, in such manner as you Our Governor, with the advice of the said Commissaries shall determine, subject to Our approbation or disapproval thereof. . . .

[Appeals to the Privy Council are to be allowed in all cases where the matter in litigation exceeds £500 and in cases involving less than that sum where the payment

arises of a duty, fee of office or other matters 'where the rights in future may be bound'.]

14. And whereas it is stipulated in the 10th article of the annexed capitulation, 'that the local taxes destined to acquit the expenses of garrisons and of the administration of the colony shall be assessed in the same manner as in 1789, except the alleviations and remittances which shall be granted to the inhabitants whose property has suffered by fire, till their possessions are repaired, and that an account shall be kept by the colony of all the sums advanced on the part of Great Britain for supplying the deficiency of the said taxes, which deficiency, as well as all the public expenses of the colony, (except those of His Majesty's naval forces destined for its protection) shall always be defrayed by the said colony'; you are to take especial care that the said article be duly executed, and that those revenues which were paid to His late Most Christian Majesty in the year 1789 excepting only the alleviations and remittances mentioned in the said article, be levied and paid into the hands of the Receiver General, who shall be appointed by Our High Treasurer or the Lords Commissioners of Our Treasury for that purpose; and you are to obey such further directions respecting the said revenues, and the application thereof as you shall from time to time receive from the Lords Commissioners of Our Treasury.

15. And whereas by Our Order in Council bearing date 11th December 1793, it is declared that the commerce of the said colony is to be carried on in the same manner as that of the other British islands in the West Indies. An abstract of all the laws by which the said commerce is regulated, will, with all convenient speed, be made and translated into the French language, and will be transmitted to you for the guidance and direction of the inhabitants of the said colony, and you are forthwith to obtain from Our island of Jamaica a table of the legal and established Custom House Fees, taken by the several officers there, and which are to be taken in the said colony, and you are to cause the same to be translated into the French language and to be hung up in some conspicuous place in the office of each port, where the business of the Customs shall be translated.

16. It being Our intention that the Catholic religion should be preserved and maintained, but that no other mode of Evangelick worship shall be excluded pursuant to the 9th article of the annexed capitulation, you are hereby directed to advise with the person who shall be the head or superior of the Roman Catholic clergy of the said colony upon all matters relating to the due discharge of the religious duties of such clergy, including the education of youth, the instruction of the negroes and all works of charity; you are at the same time to be particularly careful that the said clergy do not, under pretence of discharging their religious duties, endeavour to alienate the minds of any description of the inhabitants from a due attachment to Our

Government, and to the administration thereof in the said colony according to these Our Commission and Instructions.

17. And it is Our will and pleasure that you should make enquiry into the estates and revenues belonging to such religious houses or convents as have been suppressed, or which shall be found to belong to any religious order or society not residing in the said colony; and you are to report the same to Us, through one of Our Principal Secretaries of State; and you are in the meantime to take care that the said estates shall be duly and properly managed, and that the amount of the revenues arising from them, after paying out of them a suitable and sufficient alimentary pension to which of the persons who belonged to these religious establishments and remain in the said colony, sufficient for their comfortable maintenance; and all sums heretofore charged on these revenues for public or charitable purposes, be for the present paid to the Receiver to be appointed by the Lords Commissioners of Our Treasury, and to be ultimately applied for the public service of the said colony, in such manner as We shall be pleased to direct through the Lords Commissioners of Our Treasury. . . .

19. You are, on all occasions, to cultivate a good understanding with the officers and subjects of Our good friend and brother the King of Spain, in the island of St. Domingo, but at the same time you are to be careful not to do anything which may be construed into a relinquishment of Our rights or possessions in the said colony.

20. And whereas it is absolutely necessary that We should be exactly informed of the present state and disposition of the said colony, as well as of the state and disposition thereof previous to the year 1789, with a view to any future alteration, which We may hereafter think proper to make in the temporary government of the said colony, as established by these Our Commission and Instructions, you are hereby strictly enjoined to make diligent enquiry and to examine such documents, and communicate with such persons as may best enable you to transmit to Us, through one of Our Principal Secretaries of State, the information hereby required. And for the better ordering of your report on this subject, it will be proper that you should arrange the same under the several heads following, vizt. 1st Legislature, 2nd Executive Government, 3rd Courts of Justice, 4th Different orders of inhabitants in the said colony, 5th Revenue, 6th Commerce, 7th Religion and religious establishments, 8th Military, 9th Estates of absentees and minors, 10th Spaniards: and you are also to transmit to Us, through one of Our Principal Secretaries of State, answers to the several queries annexed to these Our Instructions. . . .

23. And whereas we have thought fit by Our Commission to direct that in case of your death, or absence from the said colony, and in case there be at that time no person commissioned or appointed by Us, to be Our Lieutenant Governor, that the officer commanding Our

forces in the said colony who shall be, at the time of your death or absence, residing within the said colony, shall take upon him the administration of the Government, and execute Our said Commission and Instructions, and the several powers and authorities therein contained, in the manner thereby directed; it is nevertheless Our express will and pleasure, that in such case such officer shall forbear to remove any of the said Commissaries, without the advice and consent of the majority of them, and such officer is, by the first opportunity, to transmit to Us, by one of Our Principal Secretaries of State, the reasons for such removal, signed by him and the majority of the said Commissaries.

6

WEST INDIES: LAW OFFICERS' OPINION: EDWARD LAW AND SPENCER PERCEVAL TO LORD HOBART

14 December 1801[1]

[The Law Officers have been requested to give their opinion on the legal position of negroes serving in infantry regiments raised in the West Indies.]

. . . Your Lordship submits the following points to our opinion:

1st. Whether the black soldiers composing the regiments so formed do not in consequence of their being in His Majesty's military service cease to be subject to the colonial slave laws?

2dly. If they do not thereby cease to be subject to the said laws, whether His Majesty by any and what Act of His own may take the individual soldiers serving in the same regiments out of the operation of the said slave laws, or whether in such case it would be more advisable to release them from the operation of such laws by means of an Act of the Imperial Parliament?

3dly. Whether any Act of the legislature of the mother country to this effect might not be deemed an infringement of that principle by which the British Parliament has of late been governed in respect to the legislative rights of the colonies?

We have accordingly taken the subject into consideration and have to apologize for not having reported our opinion upon it sooner. But it presented to us great difficulties on which we have had at times considerable doubt. The principal point which has engaged our most anxious deliberation was whether the negroes were to be considered in the condition of soldiers serving His Majesty under the Mutiny Act or as slaves employed by their master the King in military duties.

[1] C.O. 324/65, pp. 139–45. *Sir Edward Law*, K.C., had distinguished himself as leading counsel for Hastings. He became Attorney-General in Addington's administration in 1801 and Lord Chief Justice as Lord Ellenborough the following year. *Spencer Perceval*, K.C., had been counsel at the Admiralty and was now Solicitor-General under Addington. He formed his own administration in 1809 and was assassinated in 1812.

And upon the best consideration we have been able to give the subject, it appears to us that the Mutiny Act relates to persons capable of being enlisted and becoming soldiers by their voluntary consent, which capacity certainly does not belong to the negro slaves of which these regiments are stated to be composed. We are aware indeed that the words 'in pay as a soldier' which are used in the Mutiny Act were in the case of *Grant* v. *Sir Charles Gould* before the Court of Common Pleas held to fix the military character on the person who had received such pay—but then it was in the case of a person who was in a capacity to have elected originally whether he would have received it or not; and we do not think that the words can be understood to mean the receipt of pay by a slave who has no other source of maintenance, has no legal means of resisting the commands of his master, has no capacity of electing whether he will receive it or not, and has no free agency with respect to this or any other condition in which his master may think proper to place or employ him.

(1) We are therefore of opinion that they do not in consequence of their being employed by His Majesty in military service become soldiers within the Mutiny Act; and we think they remain to all intents and purposes slaves, and that their condition as slaves is in no respect altered in consequence of their being engaged in military service, but they remain precisely subject to the same laws as they would have been subject to had they been the property of His Majesty and employed in agriculture or public works or in any other species of civil service . . . . It seems to us that they cannot cease to be subject to such of the colonial slave laws as immediately respect the police and internal government of the colony, and must be subject to every species of personal incapacity which attaches upon the slaves of any other proprietor.

(2) We are of opinion that they can only be made soldiers by an effectual manumission and a voluntary enlisting or receipt of pay subsequent to such manumission under circumstances in which they were free to elect whether they would enlist and receive pay or not; such manumission His Majesty might clearly grant by His own Act alone . . . .

(3dly) An Act of the legislature of the mother country to this effect would certainly be an interference with the legislature of the colonies in a point on which it is much to be apprehended that the colonies would be extremely jealous. But whether in a matter of this magnitude, and so generally affecting the interests of all the colonies, the public convenience could be adequately provided for by any other mode is a question of expediency and not law, on which we cannot feel ourselves properly competent to decide. . . .

7

TRINIDAD: LORD HOBART TO GOVERNOR SIR THOMAS HISLOP, 2 February 1804[1]

SIR,

By my last dispatch (a duplicate of which is herewith transmitted) you will perceive the anxiety of His Majesty's Ministers to introduce into the Island of Trinidad, with the least possible delay, so much of the laws of Great Britain as may be judged expedient for the security of the persons and properties of His Majesty's subjects, and for the general advancement of the interests of the settlement.

In considering this subject, you will advert to the several constitutions under which His Majesty's settlements in America and the West Indies are governed, vizt.

1st. That which obtains in the Old Colonies; namely a Legislature consisting of the *Governor* as His Majesty's representative, with a *Council* and an *Assembly*.

2ndly. That which consists of a *Governor* and *Council*, without an *Assembly*; as was formerly the Government of the province of Quebec and is at present of the Island of Cape Breton.

3dly. That which prevails in a conquered territory governed, during His Majesty's pleasure, by its ancient laws under the sovereign authority of the King delegated to His representative the *Governor*, as is at present the case in the Island under your charge and in Saint Lucie.

Trinidad having by the late treaty of peace become to all intents and purposes a British island and all its inhabitants subjects of the British Crown, it is extremely desirable that a form of Government, as nearly approaching to that which subsists in His Majesty's other colonies as the situation of the settlement will admit of, should be established without delay.

It being however understood that neither the present internal circumstances of the island nor the actual state of its population will as yet warrant the formation of a House of Assembly or the *general* introduction of the British laws and customs as they prevail in the Old Colonies, it is essential that the measures now to be taken should have for their object the laying the foundation of the gradual advancement of the colony to such a state as will enable His Majesty in due

[1] Draft in C.O. 295/8. *Lord Hobart* had been aide-de-camp both to Rutland and to Temple while they were Lords Lieutenant of Ireland. As a member of the Irish Privy Council (1789–93) he had been strongly opposed to concession. Later, with Auckland, he had played an important part in arranging the Act of Union. Between 1794 and 1798 he had been Governor of Madras. He became Secretary of State for War and the Colonies in Addington's administration in March 1801. *Thomas Hislop*, who had served with the infantry in the West Indies, was appointed Governor of Trinidad in 1804.

time to extend to it the further benefits of the constitution of the other British colonies.

Under this impression, I herewith enclose drafts of the Commission and Instructions heretofore given to the Governor of Quebec, by which the power is delegated to the Governor and Council to enact Ordinances having the effect of laws, and in that mode, to introduce gradually, and as occasion may require, so much of the laws of Great Britain which become desirable or expedient for the settlement.

You will observe that the power given to the Governor and Council by the Commission and Instructions in question, extends also to the constitution of Courts of Justice; but the propriety of exercising this power in Trinidad, or of abolishing the existing Courts or any or which of them, is a subject on which no decision can be formed, until I receive your report upon the 25th article of His Majesty's Instructions, as well as your observations upon the article in the drafts in question.

The object proposed in the introduction of British laws to whatever extent it may be thought expedient, could not be effected with-[out] the assistance of tribunals fully competent to carry the said laws into effect. How far the present Courts of Justice and the officers presiding therein may be adequate to this purpose, I am at present uninformed.

I also enclose drafts of the Commission and Instructions according to which the form of Government prevailing in the Old Colonies consisting of a Governor, a Council and an Assembly, is established.

The Commission and Instructions under which you are now acting in Trinidad are adapted to the form according to which His Majesty exercises His right to administer the Government of a conquered territory.

With these examples before you I have now to desire that you will consider the subject with the most deliberate attention, and that you will communicate to me your opinion as to the system which may appear most advisable to be adopted in the Island of Trinidad.

In performing this duty you will avail yourself of the advice of those persons on the spot whose abilities and experience may render them most competent to assist your judgment, particularly on all points that can in any ways affect the interests of the inhabitants in regard to the laws of inheritance and other local customs and regulations. . . .

8

TRINIDAD: GEORGE SMITH, C.J. TO LORD LIVERPOOL, 14 February 1810[1]

Port of Spain.

. . . Such is the picture of our population. 5/6 slaves, 2/3 of the remaining sixth free people of colour in a state of degradation and the remainder free white inhabitants, reducing the latter description to about one-eighteenth of the whole population, and after deducting the number of women and children leaving the adult male population of free white inhabitants not more than one-thirtieth part of the whole. . . .

It [the British constitution] is beneficial only in its universal application in the community in which it prevails but like a vast army it requires a mighty plain to perform its evolutions. The House of Commons in England represents the whole people and has but one common interest with its constituents. A colonial assembly represents only a very very small part of the inhabitants whose feelings and interests are in direct opposition to the feelings and interest of the remainder; and it is owing to this vital, this irremediable defect in the legislative body of the English colonies that our slaves are proverbially worse treated than in other colonies. No maxim can be clearer than that laws are made for the people and not the people for the laws. In the present circumstances of our colonies, deprived by the abolition of the slave trade of all resources for increasing the number of their labourers, save that of increasing by their own population, policy not less than humanity calls aloud for such a system of government as may insure to this class of human creatures that protection which is essential to their increase, a practical, not a nominal, protection. This protection can only be afforded by an authority over which the master of the slave has no control and to which he must submit. And certainly he who claims himself a right over his fellow creatures not merely repugnant but in direct opposition to every principle of the British constitution has no ground in reason or justice for complaint if his exercise of such a right is at least overlooked by an authority which, though it may be in extent unknown to our constitution, is not more so than the principle on which he holds his own power over his slave. It is for this reason I consider a Government formed on the model of the British constitution to be incompatible with the vital

[1] C.O. 295/24 (Miscellaneous section). Joseph Marryat and the English party were pressing for a British constitution and British laws. See L. M. Fraser, *History of Trinidad*, Port-of-Spain 1897, vol. i, pp. 334–6. *G. Smith*, the Chief Justice, had previously acted in this capacity in Grenada. He came into conflict with Governor Hislop in Trinidad and departed for England in 1811. He was not reinstated and was succeeded as Chief Justice by J. T. Bigge. Liverpool's reply, however (see below, pp. 93–96), takes a similar view of the inappropriateness of a British constitution for Trinidad.

principle of colonial existence, and let it be further recollected that these clamorous advocates for the introduction of British laws, while they call for so much as suits their own purpose, as loudly resist the admission of any principle favourable to the rest of the community. I consider it to be incompatible with our physical powers because we have not the means within ourselves of giving effect to its leading principles in the administration of justice. Impartiality of decision arising out of an absence of all interest or connection between the judges and the party is the foundation of the excellence of the trial by jury in England. In the small circle of a West Indian island no juror was I believe ever yet impanelled who was not previously apprized of what he considered the merits of every cause he was likely to try; and when to this natural cause are added the laxity of morals and the general absence of education throughout even the better classes of a West India colony, what can result from the powers of the English constitution in such hands but injustice and oppression, and if these causes operate so powerfully on the character of a juror how much more mischievous must be their operation when embodied in the person of a legislator. To discuss the morality of a community is an invidious task, yet what must be the general character of the morality of any class of men among whom not only is concubinage universal and the married state a mere exception to the general rule but also the parent has so entirely separated from himself the first feelings of the morality of nature as to be content to abandon his unprotected unprovided female orphan child to follow the fate of her mother, to gain a temporary support by prostitution and suffer in her turn the miseries of desertion.

Such my Lord is my view of the general question as it would be applicable to every West India colony. . . .

9

TRINIDAD: LORD LIVERPOOL TO GOVERNOR HISLOP, 27 November 1810[1]

SIR,

The great pressure of public business, arising out of the important events which have been passing for the last three or four months, has prevented me from sending you the definitive instructions of His Majesty's Government on the subject of the future constitution and laws of Trinidad, as I had hoped to have been able to do long before this period.

I think it may be material, however, to lose no time in informing

[1] *Parl. Papers*, 1810–11 (184), vol. xi, pp. 333–5. Robert Jenkinson, 2nd *Earl of Liverpool*, had succeeded to this title on his father's death in 1808. In 1809, under Spencer Perceval, he became Secretary of State for Foreign Affairs, and then for War and the Colonies. In June 1812 he became Prime Minister.

you of the opinion which they have been able to form upon that part of the question, which, though most important in its nature, is nevertheless subject to the fewest difficulties in detail.

The application of the proprietors, white inhabitants of Trinidad, may be divided under two heads:—the British Constitution, as it is understood and supposed to be enjoyed in the other West India islands:—British laws, under whatever form of government His Majesty may be pleased to establish in that colony.

With respect to the first of these points, it has undergone the most deliberate consideration in all its different bearings.

The question proposed for decision has no necessary reference to that state of things which has existed for so many years in the old West India islands, but may be stated to amount to this: whether in a new colony, in which the rights of the Crown and of Parliament must be admitted on all hands to be entire, it would be advisable to surrender those rights in whole or in part, and to establish a system of government analogous to that of the other West India islands.

Even if the circumstances of Trinidad were in all respects much more nearly the same with those of the other West India colonies than they unquestionably are, the determination of Government would probably be to negative such a proposition: but it so happens, that the circumstances of the island of Trinidad are in many respects so materially different from those of all the other West India colonies, that supposing the system of government established in those islands to be the best which could be afforded to them in their situation, it would not follow that the same system could be rendered applicable, either in justice or in policy, to the island of Trinidad.

In all the other West India islands (with the exception of Dominica, an exception which arises out of recent circumstances) the white inhabitants form the great majority of the free people of the colony, and the political rights and privileges of all descriptions have been enjoyed exclusively by them.

The class of free people of colour in these colonies, as far even as their numbers extend, has grown up gradually. They have thereby in some degree been reconciled to the middle situation which they occupy between the white inhabitants and the slaves. But in the island of Trinidad, the people of colour at this time form a very great majority of the free inhabitants of the island; and the question would arise, according to the proposed system, whether in establishing, for the first time, a popular government in that colony, we shall exclude that class of people from all political rights and privileges? Such an exclusion, we know, would be regarded by them as a grievance, and it may be doubted how far it would be consistent with the spirit of the capitulation, by which their privileges were to be secured, and their situation certainly not deteriorated from that which they enjoyed under the Spanish Government.

In the second place, in most of the other West India islands, the great body of the proprietors and white inhabitants are British, or descendants from British families. To them the British Constitution and laws have become familiar. They have been educated, or suppose themselves to be educated, in the knowledge of them; and though the resemblance is certainly not great between the Constitution, as it is supposed to exist in our West India islands, and as it is enjoyed in Great Britain, the circumstances above referred to would, in some degree, account for the attachment of the inhabitants of the old West India islands to a system of government, in which a popular assembly forms a material part. But in the island of Trinidad, the white population consists of a mixture of people of all nations. The greater part of them must be wholly ignorant of the British Constitution, and unaccustomed to any frame of government which bears any analogy to it. In the case of Trinidad, therefore, amongst the most numerous class of white inhabitants, there can be no material prejudice, either of education or habit in favour of such a system; and the partial and exclusive principle on which it is proposed by the white inhabitants to be founded, whereby the largest proportion of the free people of the island would be excluded from all participation in its privileges, appears to defeat the object of it, and to constitute, in point of justice, and upon the very principles of the system itself, a decided and insuperable objection against it.

The question has hitherto been considered, as far as it may affect the internal state of the colony itself: but in addition to these considerations, it is material to add that the abolition of the slave trade by Parliament, imposes upon the Government the necessity of keeping within itself every power which may be material for rendering this measure effectual.

It is essential for this purpose, that in a new colony the Crown should not divest itself of its power of legislation, and that neither the Crown nor Parliament should be subject to the embarrassments which, on such an occasion, might perhaps arise from the conflicting views of the Imperial Parliament, and of a subordinate Legislature.

Under these considerations you may consider it as a point determined, that it is not advisable to establish, within the island of Trinidad, any independent internal Legislature.

In reserving to Himself the power of legislation, His Majesty will, in some degree, delegate that power, as far as local considerations may render it necessary or expedient, to the Governor, as His representative, whose acts will be always subject to be revised, altered or revoked, by His Majesty Himself.

In exercising this power for local purposes, His Majesty feels the advantage which may arise from a council selected by the Governor from the most respectable of the inhabitants of the island; but such a council must be considered as a council of advice, and not of control.

The determination of the Governor, even if it should be contrary to the opinion of such a council, must be considered as obligatory till such time as His Majesty's pleasure shall be known, though the members of the council may in such cases be allowed to transmit their opinions, together with their reasons, for His Majesty's consideration.

The advantages of a government of this description in colonies and remote settlements, have been experienced in other instances, and furnish the strongest possible inducement for acting upon this principle upon the present occasion.

Upon the second point, the introduction of British laws into the island of Trinidad, I am not as yet enabled to give you a decided opinion. The subject is necessarily extensive and complicated. It is at this time under the serious consideration of His Majesty's Government, and I hope to be soon able to communicate to you at large their sentiments upon it. But I thought it of importance that no time should be lost in conveying to you the determination of His Majesty's Government, for the information of the inhabitants of the colony, upon the important subject of an internal Legislature. . . .

10

TRINIDAD: LORD GODERICH TO GOVERNOR LEWIS GRANT, 25 May 1831[1]

SIR,

I have the honour herewith to transmit to you a Commission under the Great Seal appointing you Governor of His Majesty's island of Trinidad, with your general Instructions under the Royal Sign Manual accompanying that Commission with an Order made by the King in Council for improving the administration of justice in the colonies of British Guiana, Trinidad and St. Lucia. I also enclose a printed copy of the report of the Commissioners of enquiry on the colony of Trinidad, dated the 18th June 1827. It is my present purpose to direct your attention to those changes in the political and judicial constitution of Trinidad to which your Commission and Instructions and the Order in Council will give effect; I shall at the same time explain how far the recommendations of the Commissioners of legal enquiry are to be carried into execution and the grounds on which I have thought it right not to advise His Majesty to adopt some of their suggestions; I shall thus be led to take a review of a subject at once important and extensive and which it will not be possible to compress within very narrow limits. I regret that the interval which

[1] C.O. 296/10, pp. 1 ff. F. J. Robinson was created *Viscount Goderich* in 1827. He was Secretary of State for War and the Colonies in Canning's Cabinet in 1827 and returned to that office in Lord Grey's administration in 1830. *Major-General Lewis Grant* was Governor of Trinidad from 1831 to 1833.

has elapsed since the date of the Commissioners' report has been so considerable. Whatever may have been the reasons which prevented a more early attention to the various topics brought by them under the notice of His Majesty's Government, I am strongly impressed with the conviction that the time has now fully arrived for acting decisively on the subject.

It has been found necessary in preparing your Commission to adopt a form differing entirely from that which was employed when Sir Ralph Woodford received his appointment as Governor of Trinidad.

The alterations which have thus been made have appeared indispensable with a view to brevity and distinctness, and I trust that you will find that these instruments convey their own meaning with such clearness as not to require any commentary. But the change was further requisite in order to establish on a firm basis and to define with precision the extent and limitations of the legislative power which will hereafter be vested in yourself and the Council of Government of Trinidad.

It would appear that your predecessors entertained serious doubts respecting the nature and degree of the authority with which they were invested for changing or amending any of the laws of the colony; and in these doubts all the other public officers not excepting even the judges would appear to have participated. It would be entirely superfluous to insist on the inconvenience inseparable from such uncertainty on a subject of such vital and permanent interest. Neither is it necessary to explain the reasons which render the establishment of a local legislature essential to good government. There are those who maintain that no such legislature can be properly constituted except by a popular election, and that a Representative Assembly is the only body to which powers of this nature can be safely entrusted. Upon that subject I am not disposed to enter at any length, but neither can I pass it over altogether in silence.

The benefits resulting from the election by the proprietary body, in every country, of the members of the popular branch of the legislature, are too familiar to require notice, and are so universally admitted as to preclude all controversy on the abstract principle. That principle, however, is wholly inapplicable to a state of society in which a very large majority of the people are in a state of domestic slavery, and in which those persons who are of free condition are separated from each other by the indelible distinctions of European and African birth or parentage. It would be invidious to justify this remark by reference to those facts which might be alleged in confirmation of it; and I the rather decline that irksome task because I have reason to know that gentlemen of great experience in the colony and who are deeply interested in its prosperity have adopted the same conclusion. It will therefore be sufficient to say that as society is at present constituted in the island His Majesty's Ministers will abstain from

advising the introduction of a Representative Assembly and popular elections.

For the present it is intended that you should be assisted by a Council with whose concurrence it will be in your power to legislate on every subject of internal policy, provided that the power be always exercised in subordination to the superior authority of Parliament and of the King in Council, and with an exact observance of all the restrictions prescribed in your Commission and Instructions.

It may not be unimportant to observe that the rules laid down in your Instructions for your guidance in framing and enacting laws have in a great measure been compiled from the Instructions usually addressed to the Governors of the old British West India islands; and that in making that selection care has been taken to reject all such regulations as appeared obsolete or superfluous. What remains must be considered not in the light of a mere form, but as rules to which it will be your duty to adhere in the most rigid manner.

The uncertainty in which the limits, if not the legal existence, of the modified power of legislation hitherto exercised by the Governors of Trinidad have been involved has hitherto prevented the collection and publication of the existing laws of the colony. Among the first subjects of your attention will be the revision of this local code and the printing and publishing it when so revised for general information. . . .

In legislating hereafter for the improvement of Trinidad, you will be governed by the general principle that the laws of the colony should be gradually brought into as close a resemblance to those of England as the very wide distinctions between the moral and physical condition of the two countries will allow. The general principle, when so qualified, does not require a very close approximation of the colonial to English law. But neither does it admit of any deviations from that general model in favour of which some weighty reason, derived from local circumstances, cannot be justly alleged. . . .

[Various amendments are recommended in the law respecting the registration of debts, &c.]

The abolition of the Cabildo of the town of Port of Spain is advised, because the transfer of their authority to the Governor and Council would simplify the system of government and because the Governor would act under a responsibility from which the Cabildo are exempt. I think that more numerous and weighty reasons are wanting to justify so great an innovation. The Commissioners have not shown nor even stated that any specific inconvenience results from the present system, nor have they investigated the results with which such a change would probably be attended. The subject indeed scarcely fell within the limits of their enquiry. Should it be your own deliberate opinion that the existence of the Cabildo is incompatible with good government and the public interests of the colony, you will bring the subject under the notice of the Council. But without

very clear and grave reasons, His Majesty's Government will not authorize the abolition of a body to which the people at large are greatly attached, and which they not without reason regard as the constitutional guardian of some important popular privileges. . . .

11

TRINIDAD: LORD GODERICH TO GOVERNOR GRANT, 27 May 1831[1]

. . . You are aware that the expenditure of Trinidad has been represented to be inordinately large in comparison with that of some colonies having legislative assemblies, and that it has been a recent subject of remonstrance on the part of the inhabitants. Unquestionably one of the principal advantages of a popular representation consists in the check which it imposes upon the expenditure of public money; and His Majesty's confidential servants in refusing this form of government to the colony of Trinidad, as under the existing circumstances of its society they have been compelled to do, have felt it to be peculiarly their duty to supply by their own strict revision of the expenditure, assisted by yourself and the Council of Government, such control as shall satisfy the reasonable expectations of the colonists. . . .

12

LEEWARD ISLANDS: GOVERNOR HUGH ELLIOT TO LORD LIVERPOOL, 21 November 1810[2]

Antigua.

. . . I have subjoined extracts of two letters, the first from Mr. Cottle, president of the Council at Nevis: the second from Mr. Wilson, one of the senior members of the Council at St. Christopher's, both corroborating the general expression of dissatisfaction in those islands with the state of their governments. Upon these I beg leave to confine myself to remark, that I do not apprehend the defects

[1] C.O. 296/10, p. 50.

[2] *Parl. Papers*, 1810–11 (204), vol. xi, p. 365. *Hugh Elliot* was Governor of the Leewards from 1810 to 1814. Lord Liverpool, in a dispatch dated 20 September 1810, had required Elliot to send home the papers relating to the case of Edward Huggins of Nevis, who had had a number of his slaves very severely flogged in the market-place of Charlestown and in the presence of five magistrates who did not interfere. It had been stated in an affidavit that one of these slaves (a man) had received 365 lashes and another (a woman) 291 lashes. Liverpool, whose dispatch had been prompted by information given to him by James Stephen (the elder) in a letter dated 23 August 1810 (C.O. 152/96), ordered the dismissal of those magistrates who had been witnesses. Though the Assembly of Nevis resolved that Huggins had been 'guilty of barbarity altogether unprecedented in this island', he was acquitted by the Court, while the printer of the *St. Christopher Gazette* was successfully prosecuted by Huggins for libel.

complained of are to be ascribed principally to the remissness or culpability of their leading members. The root of the evil lies deeper. The fact is, the governments of the smaller islands were formed in times when many of the proprietors lived upon their estates, and the white population was, in some instances, perhaps ten times as numerous as it now is. Of the few white inhabitants who remain, managers, overseers, self-created lawyers, self-educated physicians, and adventurous merchants, with little real capital and scanty credit, compose the greatest part. The acquirements of education, among many of this description of persons, are very unequal to the task of taking a share in the governments. The prevalence of principle, either moral or religious, is also, I fear, not to be fairly calculated from the repetition of the hacknied expressions, of which an ostentatious use is frequently made in addresses, and on all occasions meant to meet the public eye at home.

To collect from such a state of society men fit to be legislators, judges or jurymen, is perfectly impracticable. Individual interest—personal influence—animosity of party feuds, weigh down the scale of justice, and divert the course of legislative authority into acts of arbitrary and unjustifiable power, cloaked under the semblance, and dignified with the name, of constitutional acts. How such defects are to be remedied is a question which requires much minute investigation, and serious and dispassionate consideration; neither can I yet venture to trouble your Lordship at length with my crude ideas upon so extensive and intricate a subject. I shall therefore confine myself to repeat, what I have already said in a former dispatch, that I apprehend the defects prevailing in the present state of the government of the Leeward Islands, cannot be remedied without a future appeal to the wisdom of His Majesty's enlightened councils at home. . . .

13

BRITISH GUIANA: TERMS OF CAPITULATION, 19 September 1803[1]

Terms of capitulation proposed by the Governor General and the Court of Policy of the colonies of Essequebo and Demarary, and the commanding officers of the sea and land forces of the Batavian Republic in the said colonies.

To

Their Excellencies the Commanders in Chief of His Britannick Majesty's sea and land forces off Demarary.

Art. 1st.

The laws and usages of the colony shall remain in force and be

[1] C.O. 111/5.

respected, the mode of taxation now in use be adhered to and the inhabitants shall enjoy the public exercise of their religion, in the same manner as before the capitulation; no new establishments shall be introduced without the consent of the Court of Police as the legislature of the colony. The public officers and the constituted authorities whether in the civil, law or church establishments as well as the members of the respective courts (except the Governor General) shall be continued in their respective offices and situations, until His Majesty's pleasure shall be known. *Granted.*

Art. 2.

The inhabitants, those who are at present in the colony, as well as those who may be abroad, shall be protected in their persons and have the free enjoyment of their properties, without being molested or troubled for any acts whatsoever, other than such as they might commit subsequent to the capitulation and in violation of the oath of fidelity they shall be required to take. *Granted.*

Art. 3.

The inhabitants shall on no account whatever be obliged to take up arms against an external enemy, but their services shall only be required for quelling internal commotions or disturbances according to the existing regulations for the burghers, and for maintaining the interior tranquillity of the colony, in conformity to what has always taken place to this day.

Granted until at the conclusion of the war it shall be determined to what Government these colonies shall be subjected.

Art. 4.

The debts contracted by the Government for the building of new barracks, the erection of batteries, the purchase of provisions for the garrison, the salaries of civil officers due, shall on the first demand be paid out of the Sovereign's or Government's chest; as well as all other demands that would have been paid or reimbursed by Government had the colony not been taken. *Granted.*

[Articles 5–10 relate to the evacuation of Batavian troops to Europe.]

Art. 11.

The sick of the Batavian troops who may be left behind in the hospitals shall be treated and taken care of in the same manner with the British soldiers: they shall be entitled to the same terms of capitulation and enjoy the same advantages as are stipulated for the rest of the Batavian garrison, and in like manner as the latter they shall after their complete recovery be transported with the most convenient speed to one of the ports of the Batavian Republic.

Granted.

Art. 12.

The commanders of His Majesty's forces shall immediately on the colony being taken possession of, furnish the Governor General with a conveyance to transmit to the Batavian Government a copy of the capitulation, with a statement of the reasons that induced him, as well as the Council of Police and the commanding officers of the Batavian forces, to surrender the colony to His Britannic Majesty.

Granted—The vessel which takes our dispatches to Europe will take those of the Governor of the colonies.

Art. 13.

No negroes shall be required from the planters for the purpose of forming or recruiting any black corps. *Granted.*

Art. 14.

Should any difficulties arise in consequence of any dubious expressions occurring in the present capitulation the same shall be explained or construed in the sense most favourable to the colony or the Batavian garrison. *Granted.*

Government House, 18th September 1803.

[Signatures follow.]

14

BRITISH GUIANA: GOVERNOR HUGH CARMICHAEL TO LORD BATHURST, 12 October 1812[1]

Demarary.

My Lord,

I had the honour to address your Lordship the 8th of September respecting a dissolution of the body of Keizers or electors—and directing a new election—this I perceived became unavoidable in consequence of the changes that necessarily occurred by His Royal Highness the Prince Regent's commands for the union of Demerary and Essequibo as also a more perfect and prompt administration of justice.

After six months' constant attention it appeared to me that party and private intrigue still remained in the college of electors, and a

[1] *Major-General Hugh Lyle Carmichael*, who had been in command of the garrison during Bentinck's Governorship, became provisionally Governor of the Two Rivers (Demerara and Essequibo) in 1812. Lord Bathurst did not approve, but did not annul, the reform of the College of Kiezers which Carmichael reported here. *Lord Bathurst* had been variously at the Admiralty, the Treasury, and the Board of Control under Pitt, and President of the Board of Control and Foreign Secretary for a time under Portland and Perceval. With the formation of Liverpool's administration he became Secretary of State for War and the Colonies and began the organization of the work of the colonial department on efficient lines.

crisis presented itself wherein their repeated returns of a disaffected alien as a member for the Court of Policy must either be directly approved of—or a measure resorted to that appeared to be the anxious desire of the respectable inhabitants (this alternative I earnestly hope your Lordship will approve) by my directing a new election and permitting an alteration in the qualification of votes for Keizers until His Royal Highness's pleasure should be known.

The general sense of the proprietors and inhabitants has been fully ascertained by the suffrages of persons possessed of the value of twenty-five negroes and upwards, the ballots being one thousand and nine—of which six hundred and sixty-five were for the members now returned and only one of the former college re-elected.

I beg leave to submit to your Lordship my address to the respective Courts wherein I have referred them to the General Instructions received by me from my predecessor.

From these documents I could not form any guide or precedent and Mr. Vanberckel the Fiscal and only Crown lawyer was averse to any change of the ancient system.

I therefore acted with diffidence, unacquainted with the Dutch laws and constitution, pursuing those measures that appeared to me to make the most direct approach to the object in view and beneficial to the colony.

Your Lordship will I trust perceive that I have studiously avoided every appearance of partiality or improper national prejudice. I am however very apprehensive that there has been a jealousy too prevalent for some time to be suddenly removed.

Whilst I have the honour to remain in this important trust I shall anxiously look for your Lordship's instructions, which shall be implicitly obeyed. . . .

15

BRITISH GUIANA: MINUTE BY JAMES STEPHEN FOR ROBERT WILMOT HORTON, 5 December 1826[1]

. . . In the year 1812, General Carmichael thought proper to issue a Proclamation by which he entirely changed the Constitution of the College of Keysers.[2] This revolution seems to have been no less in-

[1] C.O. 111/58. *James Stephen* the younger was permanent law officer to the Colonial Office at the time. In 1834 he became Assistant Under-Secretary and in 1836 Permanent Under-Secretary for the Colonies, and, as 'Mr. Mother-country', continued Bathurst's reforms of the Colonial Office. *Robert Wilmot Horton* became Under-Secretary for War and the Colonies in place of Henry Goulburn. He resigned with Huskisson in 1827 and became Governor of Ceylon in 1831.

[2] Carmichael had been instructed to correct abuses, but to make no material change in the system of government. In his efforts to 'assimilate' it to the British pattern he, in effect, produced a new constitution. Under the old Dutch system there had been a College of Electors or Kiezers, for each province, consisting of seven persons, chosen (for life) by the larger landowners. The Kiezers nominated

convenient in its consequences than arbitrary in its character. The Keysers have ceased to be what they once were, a decorous and reasonable body, but have become a contentious Assembly meddling in all the concerns of the Colony.

Two plans were proposed for remedying this evil. They were first to introduce a better Constitution than Demerara had ever yet known, or secondly to revert to that Constitution which General Carmichael overthrew. Lord Bathurst has expressed his decision that it would be better to restore the old system than to invent a new one. I fear it may seem impertinent in me to say what nevertheless I cannot abstain from saying—that if my opinion were asked, I should entirely subscribe to his Lordship's judgment. It is quite enough, however, that such is his judgment.

Then as to the mode of proceeding. You may of course work by an Order in Council. But that is not a very short or convenient method, and there is a course far more simple, and I think quite as efficacious.

The change was originally effected by General Carmichael's Proclamation. I can have no doubt but that this was an illegal act. But suppose it legal. Then I conceive that what one Governor can do by a Proclamation, a succeeding Governor can undo by a Proclamation. . . .

16

BRITISH GUIANA: JAMES STEPHEN TO HORACE TWISS, 25 August 1830[1]

Ryde.

. . . 1. I have always held, and have not infrequently said to you, that some unity of system in the internal government of these colonies is highly desirable. A perfect identity is I suspect impracticable, and I think that in attempting it you probably aim at too much. It is difficult to imagine any two civil societies more remote from each

two candidates for each 'unofficial' seat in the Court of Policy which comprised an equal number of official and unofficial members, with the Governor having a casting vote. By a separate election six colonists were chosen to act as Financial Representatives, who held office for two years only. Every year these six met the Court of Policy, and this enlarged body, known as the Combined Court, dealt with the raising of taxes and the examination of accounts.

Carmichael widened the franchise so that it included the English merchant class, and this increased electorate was to choose the Kiezers, who were now to act as the Financial Representatives, holding office for two years only. The Combined Court, although it possessed no executive responsibility, was accorded financial control, including the appropriation of supplies. In a new Commission and Instructions to Sir Benjamin D'Urban in March 1831 the old Dutch system was re-established, and in consequence there were endless disputes over the powers of the Combined Court until 1928, when the old Constitution was replaced by an advanced form of Crown Colony government.

[1] C.O. 111/98. *Horace Twiss*, K.C., had been a member of Parliament since 1820 and counsel to the Admiralty in 1825. He was Parliamentary Under-Secretary of State for the Colonies in the Duke of Wellington's administration (1828 to 1830).

other in character and circumstances than those of St. Lucia and the Cape of Good Hope—the one a small settlement of Frenchmen with a few thousand slaves employed in sugar planting—the other a territory as extensive as the island of Great Britain, inhabited by Dutch Boors and producing wine, cotton and corn. Between Mauritius and Demerara the distinctions, though less marked, are of great magnitude—the one a society of Frenchmen, aliens in feeling as well as by birth from Great Britain—the other for the most part a British settlement, accustomed to the possession of certain privileges, the value and the limitations of which are fully appreciated and understood. That colonies thus widely differing in essential characteristics should be fitted for the reception of institutions precisely corresponding with each other, is contrary to all experience and apparent probability.

2dly. The unity of system which I have desired to see established, consists chiefly in the following particulars. I would have in each a legislative body, in which a certain number of officers dependent on the Crown should meet an equal number of proprietors who are exempt from any such dependence. I would define in each colony the limits of this legislative authority in the same terms, and in each I would prescribe certain forms of proceeding for the enactment of laws. The rules should be the same throughout the whole range respecting the transmission of their laws to England, and respecting the exercise of the royal prerogative, and respecting the time and manner in which colonial enactments should take effect. Further, I would prescribe one common system for regulating the expenditure of the public revenue. Further than this I doubt the possibility of proceeding with advantage.

It seems to me that the system of electing an electoral body might be entrusted with safety to the colonists in Demerara, where they are used to it; and in Berbice, which would rapidly imbibe the habits of the neighbouring settlement; and in Trinidad where English feelings are sufficiently predominant to obviate the risk of much inconvenience. But in St. Lucia and Mauritius, where French minds would misunderstand, and French favour would pervert the privilege—in the Cape, which is a country of castes, and impervious tracts, and dispersed occupancies—and in Ceylon which is in a different world altogether—I suspect that we should purchase uniformity at the expense of incessant controversy and confusion.

Much surely should be left on a question so delicate as this to the decision and management of your agents on the spot. Though not perhaps men of very large capacity, their proximity to the scene of action is an advantage which in this case would more than compensate for every other incompetency. Had I the understanding of Jeremy Bentham himself, I should distrust my own judgment as to what is really practicable in such remote and anomalous societies. I proceed, however, to the details of your draft.

3dly. You begin by an entire abolition of all political institutions; executive, legislative and representative, and of all franchises therewith connected.

Have you a *right* to make so sweeping an innovation? Do not the capitulations guarantee to the colonists their ancient institutions? I agree that these compacts for the military occupation of a conquered country are not to be understood in such a manner as to prevent useful and necessary innovations. The contrary opinion leads to absurdities which sufficiently refute it. But the necessity must be clear, and the utility undeniable, to justify a change in fundamentals. The question was never I think before mooted in so formidable a shape as by your proposed Order.

Have you weighed the vast effect of the proposed enactment? It abolishes at a blow the whole system of government throughout all its details. You want indeed to have the ground cleared before you can begin to build; but, to pursue the figure, why pull down every public edifice in the city of Westminster in order to construct anew the ancient Palace and Hall of that name? Your words are so ample, that all local magistracies, vestries, parochial bodies, and so on, would be subverted.

Have you the power to effect so extensive a change, in the form of an Order in Council? I think not. The institutions you propose to overthrow exist by virtue of grants under the great seal, viz: the Governors' Commissions. Is it not clear law that a public record of the highest nature is irrevocable except by a similar instrument?

My own impression is that the changes which you meditate must be incorporated into the new Commissions and Instructions to be issued to the Governors.

4thly. You will allow me to say that in my judgment the orderly arrangement of such an Order as the present requires a different method from that which you have pursued. I would commence by enumerating the different institutions which I propose to establish. I would then prescribe in the same order the mode in which the different members of those institutions were to be appointed and brought together. I would then define whatever is necessary to be laid down as to the manner of their proceeding. Lastly, I would state at length, and in one succession, the rights which each political body was to possess, and the duties which each was to perform. In my apprehension the draft inconveniently mixes these topics together.

5thly. I further am of opinion that a considerable number of essential topics are passed over in silence. Consider how vast an undertaking it is, to draw a code; legislative, judicial, and financial. The comparative insignificancy of the place in which it is to operate does not much diminish the difficulty. The mechanism of civil society is substantially the same in one of the Petty Cantons of Switzerland with its five or six thousand inhabitants, as in the state of New York.

In each, provision must be made for a vast multitude of contingencies, although in the smaller society they may occur once, when in the larger they would occur one thousand times. Now remembering that you have a perfect *tabula rasa* upon which you have written about six sheets of paper, that single fact seems to me conclusive as to the insufficiency of the proposed Law. But to illustrate my meaning:—How are the votes to be taken? Who is to judge in contested elections? What shall be done in cases of double elections? Or of elections not made in due time? Have the college of electors the right of expelling their members? What is the remedy if they are not convened in due time?—And so on, I might almost say, *ad infinitum*. . . .

17

BRITISH GUIANA: PROTEST OF THE COURT OF CRIMINAL JUSTICE, 8 July 1831[1]

Criminal Court. Court House, Demerara.

Protest of the undersigned members of the honourable Court of Justice, against the admission of the Order of the King in Council, dated the 17th February 1830, and the Proclamation of the Governor, of the 29th April 1830, as *Law* in *this colony*.

1st, Because an Order in Council is a violation of the Articles of Capitulation, and therefore not law in this colony, unless published and promulgated by the Governor and Court of Policy, being the Legislature of the colony as guaranteed by the Articles of Capitulation.

2d, Because the Court of Policy has not published and promulgated the Order in Council of the 17th February 1830; therefore it is not the law of this colony, His Majesty having been pleased, at the cession of the colony (in 1815) to Great Britain, to confirm by treaty the laws of the colony as guaranteed by the Articles of Capitulation, wherein it is expressly stipulated that the Court of Policy is the Legislature of this colony. The inhabitants were parties to the capitulation by their representatives, the members of the Court of Policy. The King having confirmed the Articles of Capitulation, He cannot revoke that confirmation. The Articles of Capitulation are, therefore, the charter of the rights of the inhabitants of this colony, of which rights they cannot be deprived, except by their own free consent.

3d, Because, consequently, the Court of Policy itself has not the power of delegating its legislative powers to any individual or other body, without the previous sanction and consent of the colony at large.

4th, Because the Court of Policy has not the power, tacitly or ex-

[1] *Parl. Papers*, 1831–2 (733), vol. xlvi, pp. 298–9. An extract from the record of the Court of Criminal Justice, Demerara and Essequibo.

pressly, to declare that to be law, which has emanated from an individual or body not clothed with legislative powers.

5th, Because his Excellency the Governor alone has not the power of issuing proclamations affecting the personal liberty and property of the inhabitants of this colony.

6th, Because by the concluding Article of the Capitulation it is declared that all doubts which may arise as to the intent and meaning of the Capitulation, are to be interpreted in favour of the colony; and therefore, the attempt to make either an Order in Council or a Governor's Proclamation law in this colony, is a direct violation of a solemn compact, ratified and confirmed during the reigns of George the Third and George the Fourth.

7th, Because the decision on this point has been obtained by the use of improper means. A majority of the Court having, in the first instance, declared the Order in Council and the Governor's Proclamation not to be law, his Honour the President made use of the following illegal and unconstitutional language, viz.—

'There is no longer any court in this colony, either civil or criminal; and it will therefore be my duty to report the same to the Governor immediately, as I see no mode of punishing for murder or burning, unless the Governor proclaims martial law;' which language we can view in no other light than that of a threat, to intimidate and influence the members of this Court in the due and conscientious discharge of their duty, and which, in our opinion, produced that effect on the honourable member J. H. D. Koolhaas, who after such threat withdrew the vote which he had previously given against the Order in Council and Governor's Proclamation, and voted with his Honour the President, thereby converting the previous majority into a minority. We do therefore, for the reasons aforesaid, most solemnly protest against an Order in Council or a Governor's Proclamation being received as law in this Court.

JAMES DOUGLAS, J. MEERTENS, PETER ROSE

18

BRITISH GUIANA: EDWARD STANLEY TO GOVERNOR SIR J. C. SMYTH, 22 February 1834[1]

SIR,

I regret that the demands upon my time, arising out of the important measure of emancipation now in progress throughout His Majesty's colonies, have prevented me from conveying to you at an

[1] C.O. 112/18, pp. 106–15. *E. G. Stanley* had been Under-Secretary for the Colonies from 1827 to 1828. He replaced Goderich as Secretary of State for War and the Colonies in 1833. *Major-General Sir James Carmichael Smyth* became Governor of British Guiana in 1833. He had served with Craig and Baird at the Cape and with Wellington at Waterloo.

earlier period my instructions on the course to be pursued with reference to the finances of British Guiana. I trust, however, that the short postponement of the proceedings of the Court of Policy, and the financial representatives, which this delay will have rendered necessary, will not have produced any serious inconvenience either to the colony generally, or to the members of those bodies.

Looking as I have done to the extinction of slavery as the natural termination of those incessant and numerous disputes which have for a long time past taken place between this country and the colonies in which slavery existed, I confess that I feel considerable satisfaction in perceiving that the effect of this important change in the relations of society will necessarily have so great an influence on the financial arrangements of B. Guiana as to justify me in suggesting a measure which may bring to a close that long, intricate and unsatisfactory controversy respecting the administration of the colonial expenditure, which commenced with the union of the colonies of Demerara and Essequibo with that of Berbice, and which has since that period been the source of considerable distress and embarrassment to the affairs of the colonies, and the cause of much interruption to the public business.

His Majesty's Government are aware that the capitation tax, the main source of the revenue of the King's Chest, will literally and in strictness be extinguished, simultaneously with the extinction of slavery.

The consequent failure of the resources of the King's Chest would raise questions involving serious difficulties both of a legal and of a constitutional nature. The abstract right of the executive to a provision from other taxes equivalent to that which will thus have ceased, the constitutional means of enforcing such a right by Act of Parliament, by Orders in Council, or by Ordinances of the Court of Policy, the right of the Combined Court to interfere in a measure of that nature either with reference to the amount to be raised, or the mode of raising it are obviously subjects the agitation of which will tend to disturb that good feeling and cordiality which at all times and especially at the present crisis ought to exist between the colony and His Majesty's Government.

His Majesty's Government, therefore, although confidently relying on the correctness of the views which have been taken by successive Secretaries of State for the Colonial Department regarding the legislative powers both of Parliament and of His Majesty in Council over the colony of British Guiana, and regarding the limited nature of the functions of the Combined Court, willingly turn from the discussion of abstract rights of that nature, and address themselves to the consideration of such measures as may be likely to produce the greatest practical benefit to the colony.

His Majesty's Government have, I trust, already convinced the

inhabitants of B. Guiana of their earnest desire to promote economy in all branches of the public service. The union of the colony, the abolition of various offices, the actual reduction of the Governor's salary, and the proposed reduction of the official emoluments of several of the higher functionaries have all originated from this principle; and it is in accordance with these views that they are willing and indeed desirous that the resources of the colony should in future be administered with that vigilance and frugality which the superintendence of a deliberative body constituted as the Combined Court is constituted can so effectually and satisfactorily exercise.

At the same time, however, His Majesty's Government consider it of the highest importance to the welfare of the colony that a permanent provision should be made for the civil government and judicial establishment of the colony, which shall prevent the chance of collision between the executive and the colonists, and which whilst it secures the independence of the judges, may afford to those functionaries sufficient remuneration to induce persons of adequate talent and experience to accept posts of so much responsibility and labour. Under the influence of these various considerations H.M. Government have determined to authorize you to accede to the following arrangement in case the Combined Court should agree to its adoption.

First. That the colony should in lieu of the capitation tax grant to the King's Chest a fixed nett annual income of £17,500 primarily chargeable on permanent taxes of adequate amount. . . .

Fifth. That the deficiency which shall exist in the King's Chest including the debt of £7,143 due to the British Government shall be discharged by the colony.

Subject to the foregoing conditions His Majesty is willing to accede fully and explicitly to the anxious desire which has been expressed by the colony, and by the colonial members of the Court of Policy, that the estimates for the colonial chest, though continuing to be prepared as at present by the Court of Policy shall be discussed in detail freely and without reserve, by the Combined Court; subject to this provision only, the expediency of which will hardly be questioned, that if any new item be inserted in the Combined Court, it shall not be confirmed without the subsequent sanction of the Court of Policy, acting in their separate capacity.

His Majesty in signifying to me His commands to make this communication is confident that His loyal subjects of the colony of B. Guiana will duly appreciate the confidence thus manifested in their dutiful attachment to His person and Government, and in their discretion in the exercise of the increased powers which His Majesty thus places in their hands; and that they will feel that His Majesty's regard for the real interests of the colony is not less shown in His desire that the judges and high officers of state should be placed in a

condition of complete pecuniary independence, than in His surrender of the remaining revenues of the colony, to the free and uncontrolled discussion of the Combined Court.

His Majesty will learn with the liveliest satisfaction, that the liberal proposals which I have thus authorized you to make, have been met, as I will venture to anticipate that they will be, by a corresponding spirit on the part of the Court of Policy and the financial representatives; and that an end may thus be put at once and satisfactorily to those embarrassments which have so long perplexed the Government and retarded the prosperity of the colony. . . .

19

CAPE COLONY: ADDITIONAL INSTRUCTIONS TO GOVERNOR LORD CHARLES SOMERSET

9 February 1825[1]

. . . And whereas We have thought fit that a Council should be constituted and appointed within Our said settlement to advise and assist in the administration of the government thereof, now therefore We do hereby declare it to be Our will and pleasure that there shall be henceforward a Council within Our said settlement to consist of the following persons whom We do hereby constitute and appoint to be members of Our said Council during Our will and pleasure, any two of whom (together with yourself or, in your absence, together with the member presiding) to be a quorum viz:—

The Chief Justice;
The Colonial Secretary;
The Officer next in command for the time being to the Commander of the forces;
Lieutenant Colonel Bell;[2]
Walter Bentinck Esqr, Auditor General;
J. W. Stoll Esqr, Receiver General.

You shall as soon as conveniently may be call together the persons whom We have hereby nominated and appointed as aforesaid to be members of Our said Council and shall administer to them respectively . . . the usual oaths for the due execution of their places and trust respectively, all which oaths shall also be administered by the Governor or person administering the Government of Our said settlement for the time being to all such persons as shall hereafter be

[1] C.O. 49/16: printed in *R.C.C.*, vol. xx (1904), pp. 7–11. *Lieut.-General Lord Charles Somerset* was Governor and Commander-in-Chief of the Cape from 1813 to 1827.

[2] A veteran of the Peninsular War who succeeded Sir Richard Plasket as Colonial Secretary in 1827.

appointed to be of Our said Council before they respectively enter upon the execution of the duties of such their office.

You are to communicate forthwith to Our said Council these Our Instructions and likewise all such others from time to time wherein their advice and consent are requisite and as you shall find convenient for Our service to be imparted to them.

You are to permit the members of Our said Council to have and enjoy freedom of debate and vote in all affairs of public concern that may be brought under their consideration in Council, and if in consequence of vacancy or of the unavoidable absence or inability to attend of any of the members of Our said Council there should not be a sufficient number of Councillors upon the spot to form a quorum, you are hereby authorized by a Warrant or Commission under the Seal of Our said settlement to appoint to be members of Our said Council so many fit and proper persons as shall make up the number present to be six and no more. It being nevertheless Our will and pleasure that you do signify to Us by the first opportunity every such vacancy with the occasion thereof, as also the names and qualifications of the persons appointed by you, to the intent that such appointments may be either disallowed or confirmed by Us, and, until such disallowance or confirmation by Us shall be signified and made known to you, the persons so appointed by you shall be to all intents and purposes Councillors within Our said settlement, territories and dependencies.

And We do hereby give and grant unto you full power and authority to suspend any of the members of Our said Council from sitting, voting or assisting therein if you shall find just cause for so doing, and in case of such suspension of any of them you are to cause your reasons for so doing, and his answer thereunto, to be duly entered upon the minutes of the Council and forthwith to transmit copies to Us through one of Our Principal Secretaries of State. Nevertheless if it should happen that you should have reasons for suspending any of the members of the Council not fit to be communicated to the Council, you may in that case withhold such communication, but you are thereupon immediately to send to Us through one of Our Principal Secretaries of State an account of your proceedings therein, together with your reasons at large for such suspension and also your reasons for not communicating the same to Our said Council. And We do hereby declare and it is Our pleasure that Our said Council shall not proceed to the dispatch of business unless duly summoned by authority of you, or the Governor, or Officer administering the Government for the time being of Our said settlement, and unless two members at the least in addition to the Governor, or Officer administering the Government, or member of Council presiding in his absence be present and assisting throughout the whole of the meeting at which any such business shall be dispatched. And it is Our pleasure that you do attend and preside at the meetings of Our said Council, unless

when prevented by some necessary or reasonable cause, and that in your absence the senior member of the said Council actually present shall preside at all such meetings, the seniority of the members of the said Council being regulated according to the order in which their respective offices are hereinbefore inserted, and in all other cases according to the priority of their appointment as members of Our said Council. And in the event of any difference of opinion arising at any meeting of the said Council at which not more than two members shall be present in addition to the Governor, or Officer administering the Government, or member of Council presiding in his absence, then it is Our pleasure that the decision of the question in dispute shall be suspended and adjourned until some other meeting at which a greater number of the members of Our said Council shall be present and attending. . . . And it is Our further will and pleasure and We do hereby command you that, in the execution of the several powers and authorities granted and committed to you by your Commission and general Instructions aforesaid, you do in all things consult and advise with Our said Council and that you do not exercise the powers and authorities aforesaid, or any of them, except by and with the concurrence and advice of Our said Council, save and except only in such cases as are hereinafter saved and excepted, provided always that nothing herein contained shall extend to prevent your exercising without the advice and concurrence of Our said Council the several powers and authorities aforesaid, or any of them, in any case or upon any occasion which may be of so urgent and pressing a nature as not to admit of the delay unavoidably incident to the deliberations of Our said Council, it being nevertheless Our pleasure that the measures adopted by you without the advice of Our said Council upon any such emergency shall with all convenient speed be by you brought before Our said Council for their revision and sanction. And it is Our further will and pleasure that no question shall be brought before Our said Council for their advice or decision excepting only such questions as may be proposed by you for that purpose, provided nevertheless and it is Our will that if any member of Our said Council shall deem it expedient that any question should undergo the deliberation of the said Council, and should by application in writing to you request and propose that such question should be so discussed, it shall be competent to any such member to enter upon the minutes of the said Council such his written application to you, together with the answer which may be returned by you to the same. And it is Our will and We do further direct that in case you see sufficient cause to dissent from the opinion of the major part or of the whole of Our said Council upon any question brought by you under their consideration, it shall be competent to you to execute the powers and authorities vested in you by the said Commission and Instructions in opposition to such their opinion upon any such occasion, it being nevertheless

Our pleasure that in every case it shall be competent to any member of Our said Council to record at length on the minutes of the said Council the grounds and reason of any advice or opinion he may give upon any question brought under the consideration of such Council, and it being also Our pleasure that in the event of your acting upon any occasion in opposition to the advice of the whole or the major part of the said Council, you do by the first opportunity transmit to Us through one of Our Principal Secretaries of State a full explanation of the grounds of every such measure, together with complete copies of the minutes, if any, of the said Council relating thereto. And We do further direct that twice in each year a full transcript of all the minutes of Council of the preceding half year be transmitted to Us through one of Our Principal Secretaries of State.

20

PETITION OF CITIZENS OF CAPE TOWN TO LIEUT.-GOVERNOR RICHARD BOURKE, 15 July 1826[1]

May it please your Honour in Council, we the undersigned citizens and freeholders of Cape Town, having been informed that by resignation of the President and some members of the Burgher Senate all the seats except one have become vacant in said Burgher Senate, and considering that a public election of the members of the Burgher Senate from amongst and by the freeholders and citizens of this town would tend to constitute mutual confidence between the Burgher Senate and the citizens, that it would, far more than any other means as yet resorted to, cooperate to amalgamate His Majesty's natural born subjects and the Cape inhabitants when both meeting as brothers of one community, and electing from amongst both, will have the same common interest and one common object in view, viz. the welfare of both.

And also considering that in all other colonies under the dominion of Great Britain the inhabitants and citizens are duly represented by a body of men elected by the public, without any such body existing in this colony.

We therefore humbly beg that it may please your Honour in Council to grant us and other freeholders, citizens of this town, the privilege to appear on a certain requisition at the Town House, and there publicly to elect by majority of votes such person or persons,

[1] C.O. 48/82: printed in *R.C.C.*, vol. xxvii (1905), p. 208. This petition was signed by 194 Dutch and 48 English inhabitants. *Richard Bourke*, who had served with Wellington in the Peninsular War, was appointed to the Cape as Lieut.-Governor of the Eastern District in 1825. He acted as Governor in Somerset's absence on leave in 1826, and, after Somerset's resignation, until Sir Lowry Cole's appointment in 1828. In 1831 he was appointed Governor of New South Wales.

being freeholders and citizens, as we may think fit and qualified to be our representatives in the town administration. . . .

21

CAPE COLONY: LORD GODERICH TO LIEUT.-GOVERNOR BOURKE, 14 June 1827[1]

. . . In the meantime I authorize you by virtue of the authority which is vested in you by His Majesty's Instructions to appoint, subject to His Majesty's confirmation, two Councillors in the room of the Colonial Secretary and Auditor,[2] whom you will select from the most respectable and the most intelligent of those colonists who usually reside in Cape Town, whether they be of Dutch origin or British born subjects.

The Council of Government will then consist of the following persons, viz:

The Chief Justice of the colony for the time being,

The Officer next in command to the Commander of the forces for the time being,

The Treasurer and Accountant General of the colony for the time being,

Lieutenant Colonel Bell,

Two colonists.

By that arrangement you will perceive that it is not intended that the Colonial Secretary should for the future hold ex-officio a seat in the Council. . . .

22

CAPE COLONY: INSTRUCTIONS TO GOVERNOR SIR BENJAMIN D'URBAN, 8 November 1833[3]

. . . Fourth. And whereas We have by Our said Commission under the Great Seal of Our United Kingdom of Great Britain and Ireland bearing date the twenty third day of October in the fourth year of Our reign, declared Our will and pleasure that there should be within Our said settlement a Council to be called the Legislative Council

[1] C.O. 49/19: printed in *R.C.C.*, vol. xxxii (1905), p. 6.

[2] These officials had been named as *ex officio* members of the Council in Lord Charles Somerset's Proclamation of 2 May 1825 (*R.C.C.*, vol. xxi, p. 184), following the Additional Instructions of February 1825.

[3] C.O. 49/25, pp. 481–506. Similar instructions were sent to Governor Sir R. J. W. Horton in Ceylon, 19 March 1833 (*Parl. Papers*, 1833, vol. xxvi, p. 390). *Major-General Sir Benjamin D'Urban* had served in the West Indies and in the Peninsula. He was appointed Governor of Antigua in 1820, and of Demerara and Essequibo in 1824. On his return to England in 1833 he became Governor and Commander-in-Chief of the Cape.

of Our said settlement, to be constituted in such manner as in your general instructions in that behalf should be directed: now We do hereby signify and declare Our pleasure to be that the said Legislative Council of Our settlement of the Cape of Good Hope shall consist of not less than ten, nor more than twelve persons (exclusive of yourself) of whom five shall at all times, except in cases of temporary absence or vacancy as hereinafter directed, be persons holding offices within the said settlement at Our pleasure, and the remaining members, be they more or fewer, shall at all times be persons not holding such offices.

Fifth. And We do hereby declare and appoint the senior officer for the time being in command of Our land forces in the said settlement and not being in the administration of the Government thereof,—the Colonial Secretary for the time being—the Colonial Treasurer for the time being—the Auditor General for the time being, and the Attorney General for the time being,—shall be such five official members as aforesaid, and that any persons lawfully executing the duties of the said several offices, or any of them, during the absence, or suspension, or incapacity, or upon the death or resignation of any such officers, may by your special commission for that purpose, but not otherwise, during their performance of any such duties, be the official members of the said Legislative Council as fully and effectually as though they had been by Us appointed to such their offices.

Sixth. And We do further declare and hereby authorize and enjoin you to select, from and out of the chief landed proprietors and principal merchants of the said settlement, not less than five, nor more than seven, persons, who have been actually resident for a period of not less than two years in the said settlement, to be the first or original unofficial members of the said Legislative Council; and such persons shall respectively hold their places therein until disallowed by Us: and unless disallowed by Us within two years, then during good behaviour and residence within the settlement; and such first or original unofficial members shall by you be appointed by commissions to be for that purpose issued under the public seal of Our said settlement. . . .

Eleventh. . . . And We do further declare Our will and pleasure to be that all questions proposed for debate in the said Legislative Council shall be decided by the majority of votes, it being Our pleasure that you, or the member presiding in your absence, shall have an original vote in common with the other members of the said Council, as also a casting vote, if upon any question the votes shall be equally divided.

Twelfth. And for ensuring punctuality of attendance of the members of the said Legislative Council, and for the prevention of meetings of the said Council being holden without convenient notice to the several members thereof, it is Our pleasure and We do hereby direct that you do frame and propose to the said Legislative Council,

for their adoption, such standing rules and orders as may be necessary for those purposes, with such other standing rules and orders as may be best adopted for maintaining order and method in the dispatch of business, and in the conduct of all debates in the said Council, which rules and orders not being repugnant to your said Commission or to these your general instructions or to any other instructions which you may receive from Us, shall at all times be followed and observed, and shall be binding upon the said Legislative Council, unless the same or any of them shall be disallowed by Us.

Thirteenth. And whereas We have by Our said Commission given and granted to you full power and authority, with the advice and consent of the said Legislative Council of Our said settlement, to make, enact, ordain, and establish laws for the order, peace and good government of Our said settlement, subject nevertheless to all such rules and regulations as by Our general instructions We should think fit to prescribe in that behalf. Now We do hereby declare the following to be the several rules and regulations referred to in your said Commission.

Fourteenth. It is Our pleasure and We do hereby direct that you permit the members of Our said Council to have and enjoy freedom of debate in all affairs of public concern that may be submitted for their consideration, but it is Our fixed will and determination, to the end that nothing may be done by Our said Council to the prejudice of Us, Our heirs and successors by the introduction by any member thereof of any law which you may not consider expedient to be enacted by the said Council, that you should have and enjoy a negative voice in the passing of any law so introduced. But you will in all such cases cause a record to be made upon the Council Minutes of the reasons upon which your dissent may have been founded and transmit the same to Us through one of Our Principal Secretaries of State for Our information by the earliest opportunity of conveyance. . . .

Seventeenth. And it is Our further will and pleasure that you do not propose or assent to any Ordinance whatever respecting the constitution, proceedings, numbers, or mode of appointing or electing any of the members of the said Legislative Council, or otherwise, in relation to any of the matters mentioned or referred to in your said Commission, and in these Our instructions, which shall be in any wise repugnant to or inconsistent with such Commission or Instructions or repugnant to any Act of Parliament, or to any order made or to be made by Us in Our Privy Council, extending to, or in force within Our said settlement; but that any such Ordinance, or pretended Ordinance, shall be absolutely null and void to all intents and purposes. . . .

Twenty-fifth. And We do further direct that you do not propose or assent to any Ordinance whatever whereby any grant of money or

other donation or gratuity may be made by the said Legislative Council to you, or to any member of the said Council. . . .

Twenty-ninth. And it is Our further will and pleasure that all laws to be enacted by the said Legislative Council shall henceforth be styled 'Ordinances enacted by the Governor of the Cape of Good Hope with the advice and consent of the Legislative Council thereof', and that no other style or form shall ever henceforth be observed in any such enactments, and that all such Ordinances be drawn up in a simple and compendious form avoiding prolixity and tautology. . . .

Thirty-fifth. And whereas by Our said Commission We have as before mentioned signified Our pleasure to be that there should be within Our said settlement a Council, to be called the Executive Council thereof, and to be constituted in such manner as We should by these Our instructions direct, now We do direct and declare that the said Executive Council shall consist of the several persons following, that is to say, the senior officer in command of Our land forces, and not being in the administration of the Government thereof, the Colonial Secretary for the time being, the Colonial Treasurer for the time being, and the Attorney General for the time being, who shall for such purposes constitute and be Our Executive Council.

Thirty-sixth. And We do hereby direct and require that in the execution of the powers and authorities committed to you by your said Commission you do in all cases consult with the said Executive Council excepting only when the matters to be decided shall be too unimportant to require their advice, or too urgent to admit of such advice being given by the time within which it may be necessary for you to act in respect of any such matters. Provided that in all such urgent cases you do subsequently, and at the earliest practicable period, communicate to the said Executive Council the measures which you may so have adopted with the reasons thereof.

Thirty-seventh. And We do authorize and require the said members of the said Executive Council to meet in obedience to any summonses which shall by you for that purpose be addressed to them, and to consult with and advise you upon any question connected with the Executive Government of Our said settlement, which may by you be proposed for their consideration. Provided always that two of such members at the least be always present on any such occasion, and that distinct minutes be kept of their deliberations and proceedings; which minutes it shall be the duty of the said Secretary to keep, and We do require you to transmit to Us twice at the least in each year through one of Our Principal Secretaries of State full and exact copies of all such minutes.

Thirty-eighth. And We do authorize you in your discretion, and if it shall in any case appear right so to do, to act in the exercise of the power committed to you by your said Commission in opposition to the advice which may in any such case be given to you by the

members of your said Executive Council, provided nevertheless that in any such case you do fully report to Us by the first convenient opportunity every such proceeding with the grounds and reasons thereof....

23

MAURITIUS: LORD LIVERPOOL TO GOVERNOR ROBERT FARQUHAR, 14 February 1812[1]

... The discretion which is given to the Governors of all colonial possessions in the expenditure of the public money is very limited; it extends only to those cases wherein the public interests would be prejudiced by the delay of applying for authority from the Government at home. In all other instances that authority must be indispensably required....

24

MAURITIUS: LORD GODERICH TO GOVERNOR SIR WILLIAM NICOLAY, 6 November 1832[2]

... In the various measures which, since my accession to office, His Majesty has been graciously pleased to adopt for improving the social institutions of the colony, one difficulty has continually recurred. It has been necessary to reconcile by the best practicable compromise, the conflicting claims of the privileged class on the one hand to an enlargement of their franchises, and of the slaves on the other, to their personal freedom. But when, as in the case of Mauritius, a large proportion of the whole population are absolutely excluded from all participation in the civil franchises of the remaining part, those franchises do not merely answer their legitimate object of preventing the encroachments of the Government, but too frequently become the most effectual obstacle to the success of every effort which the Government may make for improving the condition of the degraded majority. Inestimable as the use of such privileges may be, when invoked by those who enjoy them in defence of their property, the proprietary title which is thus protected is nothing else than the right of exacting from the great mass of the people, under the impulse

[1] C.O. 168/2, p. 72. *Robert Farquhar* had been Lieut.-Governor of Penang and a special commissioner in charge of British claims in the Moluccas before being appointed to the newly acquired island of Mauritius in 1811. His instructions, dated 10 April 1811, are similar to those of Adam Williamson (see above, pp. 83–88). Upon his return to England in 1823 he entered Parliament, and became an object of attack by the Abolitionists, who asserted that he had been backward in suppressing the slave trade.

[2] C.O. 168/17, pp. 386–8. *General Sir William Nicolay* was being sent to Mauritius as Governor to restore order and obedience following the boycott there of John Jeremie, the Abolitionist, as Procureur-Général.

of pain or of terror, labours of extreme severity,—remunerated, not with reference to their real value, but by an estimate, frequently the most parsimonious, of the physical necessities of the labourer.

It is for these reasons that while endeavouring to meet the wishes of the free inhabitants for the improvement of their institutions, I have acted steadfastly on the principle of advising His Majesty to make to them every concession which would not impair His Majesty's power of advancing the ultimate emancipation of the slaves; and cautiously to abstain from surrendering any portion of that independent authority which for this purpose it is, I conceive, desirable that the Crown should retain.

Accordingly, while the King has declined to summon a legislative assembly, His Majesty has convened a council authorized to make laws for the good government of the colony; and has provided that one half of the members should be persons holding no office of emolument under the Crown. Thus also authority has been given to the Governor to abolish the censorship of the press, and to permit the free publication of political intelligence in journals and other periodical works, upon conditions closely resembling those which the law of England has established. . . .

25

MALTA: LORD HOBART TO CHARLES CAMERON

14 May 1801[1]

SIR,

It being judged expedient that the direction and superintendence of the civil affairs and of the revenues of Malta should be separated from the duties of the commander of the forces in that island,[2] whose professional employments must necessarily require his more immediate attention, but that in a military position of so much importance as Malta, all measures of the former description should nevertheless be taken in concert with the person in whose hands are placed the safety and defence of the place, and that they should be sanctioned with his concurrence and approbation previous to their being carried into execution, His Majesty from a confidence in your abilities and integrity has been graciously pleased with a view to the execution of this arrangement, to make choice of you for the management of the civil part of the service, and to direct that you should proceed to Malta with the title of *Civil Commissioner*, to which will be annexed

[1] C.O. 159/3, pp. 3–21. *Charles Cameron*, father of C. H. Cameron, was Civil Commissioner of Malta and became Governor of the Bahamas in 1804.

[2] This suggestion had been made by *Captain Alexander Ball*, the commander of the military forces, himself, in a dispatch of 6 March 1801 (see W. Hardman, *A History of Malta*, Lond., &c., 1909, pp. 344 ff.). Ball had administered the Government of Malta both during and after the blockade. His report accompanied Lord Hobart's dispatch.

a salary of two thousand pounds per annum to be paid out of the revenue of the island.

In pursuance of this arrangement, I have now to communicate to you, by His Majesty's command, such instructions as appear necessary under the present circumstances for your guidance in this important trust.

The first object for your attention is to make yourself perfectly acquainted with the laws, customs and privileges of the Maltese, as they existed under the authority of the Grand Master and Order of St. John of Jerusalem, previous to the surrender of the island to the French, and also with the different sources from which the public revenue was then derived and the specific amount of the same under each of its different heads, together with the mode of collecting it; and generally to procure all the information possible on every point connected with the forms and detail of the administration formerly established in Malta. . . .

It is of the more importance that you should apply yourself with the utmost diligence to acquire a knowledge of all the above mentioned particulars as the leading principle by which it is His Majesty's pleasure the Government of Malta should for the present be regulated is, that in substance at least, and as far as circumstances will admit in form also, no alterations should be made in the modes, laws and regulations according to which the civil affairs and the revenue of the island have been heretofore managed, unless the same shall appear to the officer commanding His Majesty's forces to be required for the safety and defence of the island, or to be so evidently beneficial and desirable as to leave no doubt of its expediency or of its being generally acceptable to the wishes, the feelings and even the prejudices of the inhabitants.

You will therefore understand that the administration of justice and police is, as nearly as circumstances will permit, to continue to be exercised in conformity to the laws and institutions of the ancient government of the Order of St. John of Jerusalem, subject only to such directions as you may from time to time receive from this country and to such deviations in consequence of sudden and unforeseen emergencies as may, in the judgment of the Commander in Chief, render a departure therefrom necessary and unavoidable, the occasion whereof however you will by the first opportunity report to me for His Majesty's information. . . .

. . . And you will further make it your particular study to ascertain whether any practices contrary to the rules of the several Courts, or inconsistent with the pure and impartial administration of justice as established and recognized by the laws of the island and the usages and practice of the said Courts, are supposed to prevail therein, and in case your information should incline you to believe that abuses of this description do exist, you will apply yourself to frame such

regulations as may appear to you adapted to correct and counteract their effects, and to ensure to all the Maltese indiscriminately, the full protection and benefit of their laws and of the tribunals under whose direction they are administered and carried into effect, and you will transmit the same to me by the earliest opportunity for the purpose of their being laid before His Majesty previous to their publication.

The Court called the *Consulato*, and of which the functions appear to correspond with those of the Court of Admiralty, cannot be continued, a Vice-Admiralty Court being the only authority by which, in conformity to the law of nations and the practice of this country, the jurisdiction now vested in the *Consulato* could be exercised in Malta in its present situation as a dependence upon the Crown of the United Kingdom of Great Britain and Ireland. The expediency of granting a commission for the establishment of such a court is reserved for further consideration.

With respect to the revenue of the island of Malta, the different sources from which it is derived and the usual produce of each, are so fully and distinctly stated in Captain Ball's report that I shall not find it necessary to go much at length into the subject.

In strict conformity to the general principle already explained to you, it is His Majesty's pleasure that the public property, either in lands or buildings, as well as the different institutions and regulations from which a great part of the public revenue of the island was derived under the Order of St. John of Jerusalem, should continue to be managed and enforced upon the former footing, with such alterations only as the change of circumstances by which the right of sovereignty, formerly vested in that Order but now exercised by His Majesty, have rendered obviously requisite. . . .

The warehouses on the wharf for the accommodation of trade are represented by Captain Ball as extremely commodious for this purpose and likely to produce a considerable revenue. I therefore trust that some other buildings may be found for the reception of the stores of the Commissary and Quarter Master General by which they are now occupied, in order that the former may be reserved to the use for which they were originally intended.

The property formerly belonging to the Order of St. John of Jerusalem, and which in Captain Ball's report is described under the different heads of *Del Tesoro, diversi fondazioni, lingue et collegio* in as far as the same lies in the island of Malta or its dependencies, do not appear to require any particular observation. The charges upon these different branches of the revenue will probably render their nett proceeds payable to Government, an object of small moment. Such of these charges as are specified by Captain Ball, namely for allowances to invalid officers and men belonging to the Order and for the education of the youth of the island, are certainly proper and must be continued. If there be any other of a doubtful nature or any abuses

either in the administration of these different branches of the revenue, or in the application of the allowances they think proper in themselves you will consider of the best mode of remedying the same and report to me your proceedings for this purpose.

The duties of customs and excise may for the present be continued upon their ancient establishment and footing. The Lords Commissioners of the Treasury will probably appoint a proper person to collect the former and will furnish him with such instructions as they may think proper on the occasion.

I must now come to one branch of the civil arrangement of Malta which, no less from its importance to the comfort of the inhabitants and the security of the island, than from its connection with the revenue, will require great diligence and attention on your part, and must be under your immediate direction and control—I mean the mode by which the island and the inhabitants are supplied with corn.

However much at variance with general principles it may appear for a Government to retain in its own hands the exclusive privilege of buying and selling corn, and however dangerous and injurious to society such an attempt (if not impracticable) would prove in any country of greater extent, or even in any island under different circumstances, I have no hesitation to give my opinion that, in Malta, the maintenance of the public authority, the defence of the island, and particularly the ease and comfort of the inhabitants themselves, all concur to require that the system which has been so long established in this respect should not be altered for the present. . . .

Under the head of expenditure, I have only to state His Majesty's expectation that the revenue will be found fully adequate to defray all the charges of the Civil Government, and to allow of a certain sum being appropriated annually to the repairs, first of the houses, warehouses and buildings belonging to Government, and should any surplus remain after providing for these services, then to the repairs of the fortifications of the island. . . .

With respect to the trade of Malta, His Majesty's confidential servants have it in contemplation to recommend to Parliament to grant to the port of Vallette all the advantages of a free port, and to make such regulations as may appear to them best calculated to encourage an extensive commercial intercourse between that port and all the Mediterranean states; but under the present circumstances and until this plan can be matured and completed, it is His Majesty's pleasure that the trade of Malta should continue to be carried on upon its present footing, subject however to such regulations and instructions as may be made and issued by the Lords Commissioners of the Treasury, or by the Lords of the Committee of Council for the consideration of all matters relating to trade and foreign plantations.

The chief article of the export trade of Malta consisting in cotton thread, the spinning of which is stated to be the principal branch of

industry in the island, it becomes necessary in order to tranquillize the minds of the people which appear to have been artfully alarmed upon this subject, to assure them that every necessary protection and encouragement will continue to be given to this important object, and that notwithstanding the war now existing between this country and Spain no interruption whatever will be given to the exportation in neutral bottoms to the Spanish ports of such thread as may have been made in the island of Malta or its dependencies from cotton *bonâ fide* of their own growth and produce. . . .

Having now stated to you such specific objects as will immediately require your attention and the general nature of your appointment and authority, I have only at present to recommend to you in the strongest manner to act with the most unreserved confidence towards the officer commanding the forces on all points of a public concern, and to maintain a perfect good understanding, not only with him, but generally with the officers both naval and military in His Majesty's service at Malta, and with respect to the inhabitants, to use every endeavour, consistent with your public duty, to meet their wishes, to show yourself indulgent even to their prejudices, and to omit no fair opportunity of conciliating their affection and ensuring their fidelity to the Government under which they are now placed. . . .

26

MALTA: PETITION TO GEORGE III, 10 July 1811[1]

We, natives of Malta, faithful subjects of Your Majesty, our elected and gracious Sovereign, induced by several transactions which have taken place in these Islands of Malta and Gozo for the last ten years (directly contrary to that high idea which public fame, and the experience we had during the siege of Valetta, had caused us to entertain of the magnanimous English nation), we take the liberty humbly to represent at the foot of Your Majesty's throne that . . . .

The privileges of the *Consiglio*, after the surrender of Valetta suddenly suspended and suppressed, though with the flattering promise made by Sir Alexander Ball to the representatives, that they should be assembled in future, when the case required, increased the infelicity of our condition. We began from that time to feel the fatal effects of this suppression. Perhaps the most honourable and respectable of the country [were] unjustly oppressed. Just and reasonable petitions often remained without a sentence, besides several violences, injurious to the free exercise of the jurisdiction of the magistrates;

[1] Printed in W. Hardman, *A History of Malta*, Lond., &c., 1909, pp. 509–11. Nicolo Capo di Ferro, *Marchese Testaferrata*, representative of an old Maltese noble family, was largely responsible for the organization of this petition.

sudden removals of entire magistracies made at the caprice of His Excellency Ball, without any formality of judgment. . . .

To dissipate, therefore, our fears and mistrust, and to further augment the bonds of the warm attachment of our countrymen to Your Majesty's Crown in a manner inseparable, we supplicate Your Majesty to take into consideration the state in which we find ourselves placed, and to look with benignity on our supplications, that we may at length obtain the restitution of our dearest ancient rights, so often promised to us, which will fill the hearts of a whole people with gratitude, fidelity, and love. And Your Majesty will have a people the most faithful, and attached to Your Crown to defend our islands.

The supplications may be reduced in general terms to the restitution of our ancient sacred rights, violated by the latter Grand Masters of the Order of St. John; enjoyed by us during the siege of Valetta, expressly stipulated, when with unlimited confidence we delivered up our islands to Your Majesty's officers; afterwards taken from us by the late Sir Alexander Ball, and again solemnly promised to us in the name of Your Majesty by the representative of Mr. Cameron:—

FIRST. The principal of these our rights are a free representation of the people or *Consiglio Popolare*, with the right of sending deputies or memorials to Your Majesty in Council whenever our rights are found to be violated.

SECOND. Independent tribunals.

THIRD. A free press, but not licentious in matters, and where our Catholic religion shall not be offended.

FOURTH. A jury either in the manner practised in England, or according to our ancient usage, with the right of appeal in every case from the sentence of the judges to the *Consiglio Popolare*.

In fine, a constitution which shall unite the spirit of our ancient, free, and only legitimate government with that of the English constitution, our religion being always kept inviolate.

To obtain our ancient rights we elected by acclamation Your Majesty for our Sovereign. We therefore supplicate Your Majesty, in the name of justice, of humanity, and by all laws, divine and human, and by the lives of twenty thousand persons lost during the siege of Valetta, to be pleased to restore to us our rights and privileges, by which the Maltese were authorized by their most ancient Sovereigns to give their legitimate consent in every change of government, which consent cannot be dispensed with without offending justice, which we do not expect from the government of Your Majesty, whom we cordially elected.

The natives of Malta, Your Majesty's petitioners (as in duty bound), will never cease to pray. And we profess ourselves the most faithful subjects of Your Majesty.

27

MALTA: THE MARCHESE TESTAFERRATA TO LORD BATHURST, 21 April 1812[1]

Duke Street, Piccadilly, London.

My Lord,

I had the honour to receive your Lordship's letter of the 3rd instant, informing me that there does not appear to the Prince Regent's Government sufficient grounds for considering the papers which I presented to be, what they profess to be, authorised declarations of the wishes and opinions of the people of Malta, and that I can be considered here only as a private individual, but that it nevertheless was in contemplation to send Commissioners out to Malta in order to examine fully into the circumstances of the civil government and its laws, and for which information I beg leave to express to your Lordship my most grateful acknowledgments. . . .

[The Marchese reasserts his contention:]

That the *Consiglio Popolare*, composed of the nobility and of a representative elected in every *casale*, shall be restored, in order to form together the first or chief representative body; that the *Università*, or Public Bank, shall be put on its former footing, its debts paid, and credits called in and realised; that the powers of the King's Commissioner shall be defined; that courts of justice shall be established and rendered independent in giving their sentences; that the suitors shall not be obliged for the institution of their suits to obtain any licence from the Governor; that the judges shall not be displaced unless guilty of improper conduct; that juries shall be established as the basis for the administration of justice; that the Intendant of Police (an employ of the most delicate nature for public security and tranquillity) shall be entrusted to a Maltese gentleman of honour and ability; that the *Casa Santa* shall be restored for retirement and exercises of piety; that the Press shall be free; that the property of individuals shall be respected; that the expenses of the war and of the present mission shall be discharged out of the revenues of the island, and that such of the grievances of individuals as have been hitherto suppressed shall be heard.

For these purposes the Maltese most humbly request that His Royal Highness the Prince Regent will be graciously pleased to appoint Commissioners who, with Commissioners to be elected in a general Congress of the island, may form a plan of government for His Royal Highness's approval, with powers for hearing the complaints of aggrieved individuals.

In a word, that measures may be adopted for putting the Maltese

[1] W. Hardman, op. cit., pp. 515–16.

under the protection of a constitution which will render them happy, and for ever unite them to the Crown of His Britannic Majesty. . . .

28

MALTA: LORD LIVERPOOL TO THE COMMISSIONERS OF INQUIRY INTO THE AFFAIRS OF MALTA, 1 May 1812[1]

GENTLEMEN,

1. Herewith you will receive a Commission under the Great Seal by which you are empowered to enter into the fullest investigation of the civil affairs of Malta, and to report thereon, for the information of the Prince Regent's Government.

2. The circumstances under which the British authority has been established in Malta presents a case bearing no analogy to any other instance in the modern history of this kingdom: and it is therefore difficult to adduce precedents by which your proceedings might be regulated or your opinions guided.

3. By the assistance of His Majesty's arms the people of Malta and Gozo were enabled to expel the French from their country;—and the Order of St. John which had held dominion in the islands between two or three centuries, having become virtually extinct, the British have remained with the tacit consent of the Maltese people, in actual possession of the civil as well as military authority.

4. Since the people of Malta came under the protection and control of Great Britian, they have invariably evinced the strongest attachment to His Majesty's Government, and have shown the most marked aversion to any political arrangement which might separate them from the Crown of Great Britain. But the unsettled state of European affairs, and the long war in which we have been involved, have heretofore prevented His Majesty from establishing in Malta any permanent form of Civil Government, and from interfering with the laws which were in existence in the island at the time when the expulsion of the French left the whole authority in our hands.

5. The superintendence of civil affairs has been entrusted to a Commissioner, whose powers have never been strictly defined, and his government has been carried on by personal management and by general attention to the interests and feelings of the Maltese people, rather than by any fixed regulations emanating from His Majesty's Government at home.

6. The ecclesiastical affairs of the island have continued nearly upon their ancient footing, and the old laws and practice of judicial

[1] C.O. 159/4, pp. 86–98. The Commissioners appointed were à' Court, who had been chargé d'affaires at Palermo; Burrows, who had been Chief Justice in Dominica; and Oakes, who was Civil Commissioner of Malta.

proceedings have been allowed to follow their course as in the time of the Order of St. John.

7. However, since Malta has enjoyed the protection of Great Britain, she has rapidly advanced in wealth and consequence. A great number of British merchants and traders and commercial people from every part of the Mediterranean have established themselves in La Valetta. Nor have the Maltese themselves been backward in imitating the industry and enterprise of the British merchants. The trade of the island, favoured by the extraordinary events of the war, has increased with a rapidity and in a degree which are unexampled:—and Malta which was valued formerly only for its military importance has now a further claim on the attention of His Majesty's Government as one of the greatest and most flourishing of our commercial positions.

8. Under these circumstances His Royal Highness the Prince Regent is disposed, as soon as may be practicable, to adopt such a system of Civil Government for the island of Malta, as may be considered after full inquiry and mature deliberation to be best calculated to ensure the future prosperity of the Maltese, and to blend their interests with those of His Majesty's British subjects; and His Royal Highness becomes the more solicitous upon this subject, on account of the representations which have been made from various quarters of the inefficiency and vexatious nature of the old laws, which are still in force in Malta; the British residents complain of these laws as not affording due security to persons and property; and as tending to cramp, rather than to encourage the operations of commerce. They likewise represent the Courts of Justice to be defective in their constitution and arbitrary in their practice.

9. It has also been understood that the natives of Malta are themselves desirous of a thorough revision and reform of laws which they consider to have become obsolete; and they are particularly desirous to see a permanent system of Civil Government established in their islands, because they would consider it as a public mark of their annexation to the British Crown, and a satisfactory pledge that the Prince Regent entertains no intention of surrendering them to France, or French influence, in the event of a general peace.

10. I am commanded therefore to desire that you would proceed in virtue of your Commission to examine without delay into all matters touching the actual state of Malta, with the exception of the military and naval departments, and of the Court of Vice Admiralty which has been established in the island.

11. In considering the principles upon which the executive authority in civil affairs should be permanently instituted, and the degree of power with which it should be invested, it is necessary that you should always bear in mind the circumstances of Malta as a military post, of primary importance. The distance of this station from Great Britain, its small extent, and its exposure to sudden attacks from an

enemy, appear to require such a division of authority between the civil and military branches, as that the latter might supersede the former, whenever circumstances of peril might make it necessary to the security of the island that the military power should be free from all constraint, and be enabled to meet the danger with its fullest vigour. Indeed it appears desirable that the supreme power both civil and military should be vested, as often as may be practicable, in the same person, in order to ensure the greatest unity, simplicity and efficacy. To this point you will turn your attention, and report, if you discover any serious objections to such an union of authority.

12. You will likewise pay attention to the military circumstances of the island in considering the powers which it may be proper to give to the civil Courts of Justice, and the limitations which it may be necessary to fix, in order to prevent their clashing with the military authorities in any way which might be prejudicial to the security of the island. . . .

13. It is likewise required of you to report fully upon the spirit and bearing of the existing laws. . . . In a paper which has been transmitted to this country by certain of the inhabitants of Malta, the trial by jury is represented as one of the great improvements to which they look forward. You will be pleased to give particular consideration to this subject, and report in what manner and under what modifications it appears to you that this institution might be introduced into Malta.

14. The paper to which I have just alluded also points at the formation of a representative assembly, with rights of discussion and appeal, and with powers of legislation, which appear to the Prince Regent's Government as at present informed inconsistent with the local circumstances and incompatible with the safety and tranquillity of the island. The leading principles by which the views of the Prince Regent's Government are guided are to give to the Maltese, and to all residents in Malta, as large a share of civil liberty as is consistent with the military circumstances of the island:—to ensure to them a pure and impartial administration of justice:—to maintain an effectual system of internal police;—and to establish such regulations as may protect commerce and encourage domestic industry.

15. In examining into the ecclesiastical establishments and revenues, you will be pleased to give particular consideration to the channel through which the Bishop of Malta receives his appointment. It is understood that independently of the Papal authority, the Crown of Sicily claims a feudal right to approve the nomination of the Bishop; and it will probably become an object to obtain from His Sicilian Majesty a transfer of this right. . . .

[They are to examine the finances of Malta and to consider possible developments in agriculture so as to render Malta less dependent upon external supplies of provisions.]

18. Finally you will give the fullest attention to all matters relating

to the commerce of Malta. . . . I am to request that you will, while inquiring into this part of the subject, inform yourself as to the advantages or difficulties which might be expected to attend the establishing of a bank in Malta upon an extensive scale, and supported by the credit of the British Government. Such a measure has been represented as likely to draw to this secure place of deposit the specie of the Levant and Adriatic, and to give all the commercial houses in the Mediterranean an interest in the safety and prosperity of Malta; but the Prince Regent's Government require the fullest information before they can form any opinion as to the policy or feasibility of this project. . . .

29

MALTA: REPORT OF THE COMMISSIONERS OF INQUIRY, August 1812[1]

Consiglio Popolare

An enquiry into the claims of the Maltese with respect to a representative assembly, with rights of discussion and appeal, and with powers of legislation, having been particularly prescribed to us in our instructions, we have not failed to give to so important a subject all that attention to which it is so justly entitled. The result of our inquiries has been the most firm conviction that these claims, so loudly urged by turbulent and interested individuals, are totally without foundation; and that, at no period of their history, did the Maltese ever possess the slightest pretension or right to a deliberative and legislative assembly. . . .

The *Consiglio Popolare*, in fact, never did and never pretended to possess any deliberative or legislative authority. It was simply an assembly of the people, summoned by order of the Crown for the nomination of certain *Jurats* of the *Universitá*, which nomination was afterwards submitted to the sovereign for his approbation. The *Universitá* of Citta Vecchia (which with some alterations in its functions exists to this day) was a municipal body, charged with the superintendency of the markets, the supply of provisions, the weights and measures, the roads and the public edifices. From this body members were, indeed, occasionally sent to Palermo in order to lay before the sovereign, or his vice-roy, any complaints or representations respecting the affairs within its immediate jurisdiction: but never upon any occasion did it arrogate to itself the right of legislation, nor in any way presume to interfere with the uncontrolled exercise of the executive power. The meetings from whence these deputations were sent were denominated *Consiglis dell' Universitá*, and were totally distinct from the electoral, or *Consiglis Popolari*. . . .

[1] C.O. 158/19, pp. 95–115 and 243–52 of the Report.

The futility of these pretensions being established, we shall add a few remarks upon the consequences which we conceive would result from the introduction of a deliberative assembly.

The inhabitants of Malta, quiet and well-disposed under laws they have been accustomed to obey, and under power they have been accustomed to reverence, are by nature possessed of the most ardent minds and inflammable passions. A word unguardedly dropped, or an accusation artfully made, might at any time be sufficient to rouse them to acts of the most ungovernable fury. But in the composition of a numerous body, chosen by the suffrages of the people, there would also be found individuals capable to discover, and to turn to their own profit, the credulity and violence of their associates. Of these two materials the *Consiglio* would inevitably be composed. The great majority would consist of the illiterate and fanatic; but these, so far from being any counterpoise to the smaller number of another description, would, on the contrary, offer the readiest and most effective instruments that could be presented to their hands.

The nature and functions of this assembly are still however to be ascertained. Even the few discontented persons, who are the most loud in their cries for its appointment, the most zealous in their assertions of its former existence as a deliberative body, are unable to give any definition of its duties, its prerogatives, or its jurisdiction. Whether its powers supersede those of the existing Government; whether the Chief Magistrate has any check upon its deliberations; whether its decrees have at once the validity of laws; these are questions which no-one is prepared to answer, and this inability (where a pretence has been advanced of its having been made a subject of study) argues clearly that there are no precedents by which we can be guided; no experience of former transactions, to which any reference can be made.

But on what is this *Consiglio Popolare* to deliberate when assembled? On taxes? With the exception of a small duty on carriages, there are none imposed. On laws? The limited community of this island cannot certainly require the annual interference of the legislative power, as in countries of greater extent. On commercial matters? These must necessarily depend upon the arrangements of the mother country. Little, therefore, remains for the deliberation of this deliberative assembly, unless, in the plenitude of its power, it should proceed to the discussion of the acts of the executive Government, or to interfere in the arrangement of the state.

Should this concession be made, we will not say to the wishes of the Maltese, but to those of an insignificant and turbulent party, the consequences are obvious but unavoidable. Every chimerical project that folly, ignorance or ambition can frame, will be brought forward and agitated. The fury of superstition and the influence of priesthood will be set in motion. The leaders of the assembly must either be

bought at the price that vanity may attach to its own importance, or they will oppose Government in every measure. The elections will be the source of continual tumult and intrigue in the *Casals*, and the assembly itself productive of every species of disorder in the capital. In a word, it will be the focus of sedition, radiating from the centre to the extremities, and paralysing all the efforts of Government.

So firmly are we persuaded of the mischievous effects that would result from entrusting any portion of political power to a people so singularly unfitted to enjoy it, that, with a view to the real happiness of the Maltese, we have no hesitation in saying that were the pretensions to the former existence of a deliberative and legislative assembly as clear and incontestable as they really are obscure and groundless, we should still feel it our duty to recommend most earnestly a positive refusal of its re-establishment, as a measure fraught with the greatest danger, and involving the most ruinous consequences. . . .

[The Commissioners are critical of the present arrangement, under which the Civil Commissioner is a personal ruler with undefined powers. The existing Council, consisting of four Maltese lawyers, is unsatisfactory. If it exercised political power, it would impede the executive without imposing a salutary restraint. In order to avoid the danger of Government being unduly dependent upon the personal character of the Civil Commissioner, it is recommended that there be a new Council, consisting of four Englishmen and four Maltese, the Government having two votes, original and casting, in order to secure a British majority. A number of restraints on the Commissioner's powers are recommended.]

The existence of an independent council at the same time that it will relieve him from much responsibility, will be a check to the abuse of the powers entrusted to him, which will still be sufficiently ample to ensure that respect to his authority which it is so essentially necessary to uphold. There is very little reason to doubt but that such an arrangement will be highly acceptable to the Maltese. They will be secured from the arbitrary proceedings to which they may be exposed from the influence of passion or prejudice, and they will be gratified by having a legal channel of address to their sovereign in England, which appears to be an object of universal desire. . . .

In framing the materials for this new council, we have endeavoured to steer between the unlimited authority exercised by the Grand Masters, and the too great diminution of power which some have thought it advisable should be prescribed to the authority of the Civil Commissioner. It has been our object to take away from him every privilege which might hereafter be exerted to injure or oppress, but to leave him in the undisturbed possession of those which may be necessary to give force to his government, and to ensure the welfare of the state. Nor have we lost sight of the wishes and expectations of the Maltese. Instead of being obliged to rely for the support of their privileges upon the doubtful interference of four lawyers, entirely at the disposal of the Commissioner, they will have the satisfaction of seeing that their interests are confided to persons independent of the

executive authority, and that the nation is entrusted with a voice in the councils by which it is governed. All pretence for the clamour which has been raised for the institution of a deliberative assembly will be at once annihilated. A regular channel of complaint will be open to every class of the inhabitants, and with so powerful a representation in the council, it will be impossible that they should petition in vain. . . .

30

MALTA: LORD BATHURST TO GOVERNOR SIR THOMAS MAITLAND, 28 July 1813[1]

War Department.

. . . The chief authority is vested in the person of the Governor. This officer will hold the King's commission as such, and also as Vice-Admiral of Malta and its dependencies. It is the opinion of His Majesty's Government that it is highly advantageous to unite the civil and military authorities in the same person, and you will hold the chief command of His Majesty's land forces upon the Island.

The authority of the Governor is limited only by the orders of the King. He is responsible to His Majesty and to his country for his conduct; but his discretion is not to be shackled by any person or by any body of persons resident in Malta. If, however, you shall see fit (either for the better transaction of public business or for other sufficient reasons) to form a Council for the investigation and discussion of such matters relating to the civil interests of the Island as you may think proper to lay before it, you are authorized to do so; observing that the number of members shall not exceed six, exclusive of the Governor, and that the Bishop of Malta, the President of the High Court of Appeal, the Public Secretary, and the Treasurer of the Island shall sit in this Council, the other members to be named at your discretion.

No business shall be discussed in this Council but what shall have been brought before them by the Governor himself. The members shall not vote, but merely deliver their opinions and advice, and in case any member shall, after the discussion, disapprove of the course which the Governor may pursue, he shall be at liberty to transmit in writing within twenty-four hours a statement of his reasons for dissenting, and if the member requires it the Governor shall be obliged to send home this protest to the Secretary of State. Having thus

[1] W. Hardman, op. cit., pp. 527–8. *Lieut.-General Sir Thomas Maitland* had served in India and the West Indies. He was appointed Governor of Ceylon in 1806 and of Malta in 1813. In December 1815 he was made Lord High Commissioner of the Ionian Islands and Commander-in-Chief in the Mediterranean. He was a very able, if somewhat arbitrary and opinionated, administrator. See C. W. Dixon, *The Colonial Administration of Sir Thomas Maitland*, Lond. 1939.

detailed the principal civil offices which are to be filled by British subjects, I proceed to point out the objects to which it is necessary you should give your earliest attention upon assuming the Government. . . .

That in regard to the laws by which the Maltese have been accustomed to be governed, and the proceedings of the courts of judicature, the Prince Regent has commanded that such alterations only should be introduced as appear to be imperiously called for by the improved circumstances of the Island, and to be necessary for ensuring to all classes of the inhabitants an equal dispensation of justice and for guarding against abuses and delays in the proceedings of the courts. Finally, that His Royal Highness has given to you full powers and instructions to carry into effect such changes as may appear indispensable, and to take the necessary measures for improving the revenue, extending the commerce, and securing to the Maltese people those articles of primary necessity which must be derived from other countries.

I am inclined to believe that a declaration of this nature will be productive of very beneficial effects, and that the boon the Maltese receive in their annexation to the British dominion will outweigh the considerations of any partial shock, which the first introduction of British principles might occasion to one or other of the classes of society. Immediately after the issuing of a Proclamation to this effect you will cause the arms or emblems of the Order of St. John to be removed from all the public buildings, and likewise the armorial bearings of the different Langues and Grand Masters, and you will cause His Majesty's arms to be affixed, with due ceremony, to the Governor's Palace, and to any other edifices, when you may think it advisable. . . .

31

MALTA: PETITION TO WILLIAM IV (July 1832)[1]

SIRE,

The undersigned inhabitants of the island of Malta and its dependencies, faithful and loyal subjects of Your Majesty, grieved at the progressive deterioration of their country and alarmed at the prospect of a future still worse, in confirmation of a similar petition laid before the Throne through the means of the Lieutenant Governor on the 18th May 1832, humbly venture to lay at Your Majesty's feet their earnest supplications, entreating from Your Majesty a relief for present and a remedy against future evils. . . .

Since the year 1800 a remarkable and successive change has taken place in the fundamental laws of the country, the national privileges

[1] C.O. 158/73. Enclosed in Ponsonby to Goderich, 20 July 1832. No date.

have gradually been all disregarded or suspended; to the representative magistracies have been substituted others more dependent, in such manner that former laws coming into collision with recent, and ancient with modern institutions, a system of administration has [been] engendered at once defective and inconvenient.

The natives of Malta have not failed from time to time to lay their supplications before the glorious throne of Your predecessors, and in consequence in October 1813 a Proclamation was issued by the local Government to the following effect: 'That His Majesty has been pleased to take into consideration the uncertain and unsettled state of the Maltese, and that it was His gracious determination to acknowledge them as subjects of the British Crown, and as such entitled to His most ample protection; that in consequence the necessary measures were to be taken by the Government in Malta to secure to the inhabitants an entire participation in the happiness, advantages, security and prosperity enjoyed by all subjects of the British Empire in every part of the globe.'

The measures locally taken, however, did not correspond with the beneficent intentions of the Sovereign, the legislative power dependent on the will of a single person, in no way moderated nor assimilated to that of the Mother Country, and at times exercised without taking into consideration the interests and circumstances of these islands, thus became the source of not a few evils.

The want of a clear and well digested code has given rise to the present fluctuation in the laws, it being sometimes necessary to recur to the Roman jurisprudence and at others to Sicilian, English and Municipal Statutes, or to a series of Proclamations, notifications, orders and regulations too often in discordance with each other, and from time to time modified, varied and revoked, so that from such a compilation results to the citizens but little security for either person or property. . . .

[There follow various complaints about the evils of pensions granted to persons not resident in Malta, of heavy customs duties on necessities such as corn; Government neglect of agriculture and commerce; lack of education.]

Now Your petitioners, as loyal and faithful subjects of Your Majesty, ingenuously confess that the above indicated evils are here generally attributed to the want of a body of the natives being associated with the local authorities, since none can be better acquainted than themselves with the circumstances and wants of their own country. In order therefore to obtain an object of such advantage to the inhabitants of these Your islands, the undersigned, O Sire, humbly implore from Your Majesty the advantage of a Native Council of competent number to be freely elected from the classes of landholders, followers of the liberal professions, and merchants, to be consulted on the interests of these islands and to be invested with the power of indicating the necessary legislative and economical remedies,

not repugnant to the laws of the Mother Country, after the manner so sagely provided for by the constitution of Great Britain.

Nor does this humble prayer proceed from any desire of novelty since these islands from a very remote epoch actually enjoyed the advantage of so salutary an institution; and they still possessed it at the moment, when at the request of the natives, Great Britain accorded its protection to the people of Malta, a benefit always desired and often requested by them, and the suspension of which for a time was regarded as a public calamity.

In imploring from Your Majesty a renewal of such institution, we are encouraged, by observing that a representation having been granted to other colonies by Your predecessors, to hope that Your Majesty will be graciously pleased to accord a similar privilege to these islands, which for some time have been on a level with the rest of Europe in the scale of social advancement.

Such is the boon that is incessantly implored by the natives of these Your Majesty's islands, subjects who during the vicissitudes of war and the continuance of the peace have always, O Sire, conducted themselves as faithful and affectionate subjects of Your throne.

[Signed by 506 persons.][1]

32

MALTA: GOVERNOR SIR FREDERICK PONSONBY'S ANSWER TO THE PETITIONERS, July 1832[2]

. . . In conclusion I will make a few observations upon the remedy proposed, namely a Council of natives freely elected from the classes of proprietors, persons exercising the liberal professions, and the merchants.

If Malta was an independent state, no-one could dispute the propriety of such a proposition, but as she is a colony of England, I foresee difficulties which in my opinion would overbalance the advantage of a Council. I admit that it would be most agreeable to me to have the opinion of a body of the native inhabitants in all matters concerning the interests of the islands, but I confess I do not see how the line could be drawn to prevent differences of opinion where the wishes of the mother country and the interests of the colony are dissimilar.[3] . . .

[1] These included 59 lawyers and doctors, 9 nobles and landowners, 100 traders, 29 master seamen, and 43 skilled artisans. The prime mover was Camillo Sceberras, a member of an old and wealthy Maltese family, but possessed of no property himself: a person of 'no weight or influence', according to Ponsonby.

[2] C.O. 158/73. This also is enclosed in Ponsonby's dispatch of 20 July 1832. *Sir Frederick Cavendish Ponsonby*, like so many contemporary Governors, had served in the Peninsular War. He was given a post on the staff in the Ionian Islands before being appointed Governor of Malta in 1825.

[3] He instances the conflict between a metropolitan desire for retrenchment and

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IONIAN ISLANDS: LORD CASTLEREAGH TO LORD LIVERPOOL, 24 December 1814[1]

Vienna.

MY DEAR LORD,

Although no overture has yet been made to me by any of the powers with respect to the Ionian Islands, and as my object has been to keep this possession in our hands to the last, as a security for the due observance of all engagements in which we are interested, I am desirous of throwing before you some ideas upon this point, in order that I may learn, if possible before I am called upon to explain myself, the general view the Cabinet now take of this question.

We have hitherto never laid claim to retain these Islands as a British possession. . . .

In disposing of these Islands there are as it appears to me two paramount objects to be attended to—the one to provide adequately for the protection of the people, who have so long confided themselves to our care—the other not to suffer Russia to acquire any establishment in those Islands to the hazard of the internal tranquillity both of Greece and Hungary, which latter kingdom is full of Greeks. . . .

The principal utility of the seven Islands to Great Britain being the convenience of their harbours for purposes of refreshment and commerce, especially in war, might not they be neutralized as was intended with respect to Malta in 1801; and their ports rendered free, on very moderate duties, to all nations. If this was the object, perhaps the works at Corfu should be demolished, and the system guaranteed by all the great powers. A sovereign authority ought nevertheless to be confided to some neighbouring state, to guard against local cabals, and to give unity and weight to the executive Government: but this sovereignty, I apprehend, by a special capitulation, might be rendered consistent with such a system.

There is a native of these Islands, M. Capo d'Istria, now here—he is a man of ability, has for some time acted as Russian Plenipotentiary in Switzerland, and is at present much employed by the Emperor. In speaking of these Islands one day to Mr. Cooke he said, that as a Russian minister he must promote whatever objects his court might give him in charge, but that as a native, his opinion was that these Islands, for their own happiness and prosperity, should remain under the protection of Great Britain, as the greatest maritime power, the best able to secure to them the advantages of their flag, and the freedom of their commerce.

a Maltese demand for imperial expenditure. Malta's ills, in his opinion, were due primarily to economic, not to political, factors—particularly overpopulation: 'an immense population . . . far beyond the internal resources of the islands'.

[1] B.M. *Liverpool Papers*, Add. MSS. 38,566, p. 31: marked 'Private and confidential'.

I should be glad you would ask Lord Bathurst, whether any reports have reached him of General Campbell[1] having taken up an unusual system of terror, if not of severity to the people of Corfu since his arrival there. Such a report was communicated to me some time after my arrival here, and, upon enquiry I have reason to believe there is some foundation for it. He is represented as an honourable, just and well-meaning man, but as having shocked the prejudices of the people, and rendered us unpopular, by hanging culprits in chains, and erecting the gallows and other engines of punishment in the public walk of the town. I desired Mr. Cooke to apprize him in a private letter of these stories, that he might enable us to correct misrepresentations. . . .

34

IONIAN ISLANDS: GOVERNOR SIR THOMAS MAITLAND TO LORD BATHURST, 6 January 1816[2]

Malta.

. . . It is my intention whenever I arrive there [i.e. the Ionian Islands] distinctly to explain (and I shall probably proclaim it) that no convocation of a Legislative Assembly is meant to be made for several months to come. That the formation of such an Assembly demands in itself the fullest consideration, and the most perfect knowledge of the habits and characters of the people—that I shall be open to hear every suggestion that can be made on the subject. But they are not to expect from the British Government that either an Assembly will be called or a Constitutional Charter submitted to them, till it has undergone the most thorough consideration and the most strict scrutiny in all its points and bearings—that we are not going to administer any wild or speculative theory of government to those Islands—that we are not going to adopt any one party in preference to another—that it is the wish of His Majesty to give efficient support and protection to all the different branches of the community in the various gradations of society—but it must be an efficient support, and tend to communicate some portion of British happiness and security to those who at present have but little idea of it—and that if we do justice to all, we have a right to expect, for their own sakes, that they will, one and all, support us in our measures.

My reason for stating that I shall adopt this measure at first, is, that no-one can have a conception of the extent to which misrepresentation always goes in those countries—were I only to hold out this to

[1] *Lieut.-General James Campbell* had been ordered to take possession of the Ionian Islands. During his short period of command there he earned a reputation as a despot. He was succeeded by Maitland in 1816.

[2] C.O. 136/5.

individuals, it would infallibly be grossly misrepresented according to the feelings of each—and nothing I could say would do away the effect of such misrepresentation, but stating the whole thing openly and avowedly at once, and I think we have the most irrefragable grounds for so stating it, it will settle down the public mind, and it will arm your Lordship, too, with an authentic document to the Russian Government,—for we must lay our account, notwithstanding the wisdom of the clause in the treaty prohibiting any accredited diplomatic agents from coming there, that as long as Capo d'Istria is in the counsels of the Emperor of Russia, that he will be stirring in favour of the only thing he thinks, and all his colleagues think, government consists in—to wit that the ex-Venetian nobles should hold in their own hands the unlimited power of oppressing and degrading all other orders of society, and of plundering the public in every direction.

I rather feel, on the whole, that with the saving clause in the treaty, viz. that of H.M. ratification to the Constitutional Charter being requisite, without which the present Government still goes on—we may be able to force them into something approaching to a rational system in their Constitutional Charter. But our greatest difficulty will arise the moment we get into this state, for however practicable it may be in itself, and however advantageous to the people, still if there be no remedial power vested in His Majesty to correct abuses, I much fear the whole fabric will fall to the ground, for such I understand is the inveterate propensity to venality and corruption on all hands, that they consider being employed under Government as a trust delegated to them for no other purpose but to make the most of it for their private interests. This part of the question will require the deepest and most serious consideration. And whatever may be the ultimate success, I can assure your Lordship I will not spare it. . . .

In respect to the third point, the courts of law, they must be changed, and before the convocation, but upon this I will say nothing further at present than that I will alter none of their laws, but immediately set about altering the whole of their practice under their laws, and as I am pretty well *au fait* of these practices from what I have experienced here, I should hope to be able to transmit this to your Lordship at an early period.

On the whole I shall only now add to your Lordship, that whatever may be the result of this new experiment, and though I am perfectly prepared to say the stuff we have to deal with is of the very worst manufacture, still, I trust, you will have no reason to blame my want of assiduity or zeal upon the occasion. . . .

35

IONIAN ISLANDS: GOVERNOR MAITLAND TO LORD BATHURST, 6 May 1817[1]

Corfu.

. . . I have no difficulty in stating to your Lordship that under all the circumstances of the situation—looking at it in every point of view (and I believe many of the most sensible men in these Islands concur with me) that it would have been infinitely more for their benefit and advantage, had they at once been made colonies to England, than left as they are by the Treaty of Paris.

This however was impossible to be done under the Treaty. . . . I have always considered the Treaty of Paris as a Treaty made between Russia and England for the benefit of the Ionian people, and though in fact the other great Powers were styled principals upon the occasion, that in truth they were mere accessories to that Treaty. . . .

If I am correct in this, and if it be true that such was the real object of that Treaty, it naturally [meant] that if we did give to them either a better regulated system of Government, or an extension of liberty and security they never before possessed, that we had fulfilled both in the letter and spirit the obligation we had entered into with Russia, and that that Court at least could not have the smallest pretence for saying we had stretched the powers granted to us as a Protecting Sovereignty under the Treaty of Paris. I am fully persuaded that it is unnecessary for me to explain to your Lordship the grounds upon which I maintain we have done both the one and the other. It would be a mere recapitulation of what I have said in my address to the Primary Council, but I am sure your Lordship will agree with me in this general and incontrovertible sentiment, that definite power however extensive is a lesser evil in any State, than power alike undefined and uncontrolled.

This is the broad principle in which I have placed the powers to be possessed by the Lord High Commissioner. It is true that in the Constitutional Chart [t]his interference appears to form a leading part of it, that it throws this interference in the foreground, whereas the interference of Russia was always kept in the background, but I think the reason of this is so obvious, and the grounds upon which it stands so irrefragable that I conceived it infinitely better to subject us to this imputation, than to act upon principles that materially militate against the happiness of the people, and were in direct violation of every principle of our own Constitution. It may be said however that with all the powers conceded to the Lord High Commissioner, that still there is a reservation in many instances on the part of the Crown, and this is most true. But your Lordship will perceive that uniformly

[1] C.O. 136/186.

these reservations imply that it must come direct from the Crown, and are not in the breast of the Lord High Commissioner, and you will equally perceive too the immense distinction and difference acquired to the Ionian people under this reservation.

It is a reservation subject not to the will of a despot, not to the change from Paul to Alexander, but one subject to the Constitutional Laws and practice of our Kingdom, and possibly the greatest difference between their present state and any former state consists in their not now being subject to the will of an arbitrary power, not to the caprice of a temporary Lord High Commissioner, but that let whatever change take place, whether with regard to the Lord High Commissioner, the Ministers of the Crown, or the Crown itself, that their situation must be equally fixed and certain, so long as the British Constitution remains (as I trust it ever will do) secure and inviolate. That such reservations were in a considerable degree necessary I am sure I need not take the trouble of explaining to your Lordship. They were alike necessary for the honour of the Crown, and for the due control of the Lord High Commissioner in these Islands.

But the broad question in my mind to be considered throughout all this part of the subject is whether the Ionian people are not eminent gainers with reference to what they now have a right to have in comparison to what they have ever had at any former period, and I must be extremely mistaken indeed if the balance be not extremely in their favour upon the present occasion. I therefore hold that in the whole of this Constitution we have given an extension of liberty and security to the people they never possessed under any former rule, and that therefore we have fully accomplished as far as relates to Russia the engagements we entered into with her. . . .

It will be needless for me to show your Lordship that as long as they are well inclined to us, we must possess every degree of governing power here, for though [a] great part of that power is stated as a negative power, still as long as we go on with a portion of the people in our favour, it becomes a direct affirmative power, and certainly from its whole texture and fabric including the limitation of the right of election by double list will give us a stronger hold than we have ever had over our old colonies. Supposing however they all combine against us, that is to say, that the whole persons in Government do, I still say we have the full power of defeating any such cabal by dissolution, and by the power vested under dissolution in His Majesty's Lord High Commissioner. He having in that case the right to appoint five of the new Primary Council which sends the lists. All then that we ever can have to do to secure ourselves in the event of any intrigue is supposing they were all combined against us, which is a thing impossible from the nature of their character, we have only to secure one or two of the old Senate, when we can displace every man in every situation in the country, and choose a new set. . . . The difficulties that have occurred

in allaying their private hatreds, their local jealousies, and their personal piques of one another has [*sic*] rendered the bringing them together, so as to produce the unanimous result that is now before your Lordship, a matter of difficulty and of constant labour greater than I ever experienced. I mention this to your Lordship merely to prove the impossibility of their ever defeating us with the Constitution to which they have agreed, for we can always give more to those if they go with us, than they can possibly expect to gain if they go against us. And therefore I hold that as far as the governing power goes, we have every rational degree of security under the Constitution. The most material point connected with this subject however is the arrangement I have made in regard to their money expenditure. . . . We have kept in our own hands completely the whole management of their revenue and customs. We have kept in the power of the Executive Government with the sanction of the Lord High Commissioner the whole extra expenditure. We have perfect hold over even the common Civil Lists, and I think your Lordship will be inclined to agree with me that the arrangements that are made in the Constitutional Chart upon this head are better than any precise Convention that could have been framed: at all events till we get a competent knowledge of what their revenues are likely to be, when it will be still open to His Majesty through your Lordship to come to any ulterior understanding it may be deemed advisable to adopt on this important topic.

I therefore fairly own my opinion to be, that we have secured the strongest controlling governing power here, a power that I dare say will be thought considerably too great by Mr. Brougham and his associates. The answer to them however, or at least to any man, when judgment is not totally perverted, will be found in the first part of this dispatch, where their true character and their non-fitness for a free Government is so perfectly confessed by themselves. . . .

36

CEYLON: GOVERNOR SIR THOMAS MAITLAND TO LORD CAMDEN, 28 February 1806[1]

. . . I have with much pains waded through the whole of this scene, and I have now the satisfaction of stating to your Lordship that I think I may state without flattering myself, as you will see in my general letter, that I have placed the whole of the Island in a situation totally different, more adequate to its resources, more consonant to the wishes of His Majesty's Government, more respectable in itself and more conformable to every principle of the British Government.

[1] C.O. 54/21. *Earl Camden* had been Lord-Lieutenant of Ireland between 1795

All the civil servants are kept in their due place, executing as they ought to do the duties of their several situations, and I have inculcated in the strongest manner, and enforced where it is necessary, that the best and surest road to individual independence, is by improving the revenues of the Crown in this Island.

The pay of the civil servants with the whole of the establishment employed in the dispensation of justice is fully covered by the judicial receipts. No man can be confined without immediate trial, and the decrees of the court are carried into effect in the manner directed by the law of the Island.

The collectors of the revenue are made as they ought to be, the receivers, and not the disbursers of the public means: no individual is a public accountant, and not a shilling is advanced or paid without my previous authority and warrant.

The accounts of the Island, both military and civil, are simplified in a manner so as to be perfectly clear and easily understood, so much so, that on the 10th of every subsequent month, I am aware of every shilling that has been received, and expended in the antecedent one.

The establishments have been universally reduced within bounds, calculated on the one hand from a view of the scantiness of our resources, and on the other, of the absolute necessity of such establishment.

It is impossible for me at once to bring back the Island to where it stood before some of the innovations of my predecessor had taken place; but I am advancing by no slow steps to this great object, which your Lordship will see alluded to in my general letter.

Out of these measures a reduction of expense has taken place, to a very large amount, and I am not without hopes that the revenue of the Island covering its expense as it at present stands is no longer a theoretical speculation, but is nearly reduced to a practical inference, arising out of the statements and documents I have already submitted to you. . . .

37

CEYLON: GOVERNOR MAITLAND TO LORD CASTLEREAGH, 28 February 1806[1]

. . . In regard to the civil servants I feel it my duty to state to your Lordship distinctly that in general I conceive they are under paid in point of salary, and what I would propose on this subject is, that if the Island should pay itself as it at present stands that I might be enabled to make an addition to their salaries with directions to strike off every part of their establishment that can be dispensed with.

and 1798. He was now Secretary of State for War and the Colonies in Pitt's second administration.

[1] Draft in C.O. 54/22. The dispatch was formally dated 1 March 1806.

The general outline I would propose for myself on this subject is to increase the offices now held at £1,400 to £2,000, those at £1,000 to about £1,400, and those at £500 to about £700, a measure that would be attended with no considerable expense to His Majesty's Government, that would show an indulgent attention to the nature of their situation, and which I think they are fairly entitled to, if they go on as they are at present doing. On this head, I must request your Lordship's Instructions.

I am extremely anxious too that the nature of the establishment itself in one point should be altered, vizt. that the Board of Revenue should be immediately done away.

This Board is in a civil exactly what the Military Board was in a military point of view. It had the appearance of relieving me from some degree of responsibility, though in truth it does not in fact relieve me from any.

It was neither more or less than a Board that could do a good deal of harm without the possibility of doing any good. As a Board of Audit it was perfectly nugatory, as far as related to the interests of Government, but it undoubtedly was not nugatory as far as related to the unfair interests of individuals.

What I have therefore to propose to your Lordship on this head is its immediate and total abolition and I would further propose that in lieu of it, His Majesty should appoint a Commissioner of Revenue to act under the direct orders of His Majesty's Government here with a salary equal to that of Chief Secretary and a seat in Council.

The utility of this appointment would consist not in his sitting down here and receiving ex parte statements by letters from the different Collectors, but in his being actively employed under the orders of the Governor in visiting the different parts of the Island, in controlling all the different petty abuses that might occur in any district and in generally convincing the natives as well as the Collectors themselves that the first are to look to the Government and not the Collector for protection, that the second would have no refuge in any statement they could make under the control of an active and efficient Head of Revenue.

I think your Lordship will be so much convinced of the propriety of this measure that you will have little difficulty in allowing me to carry it into effect. . . .

The measure I have to propose in regard to the Treasury is one of two: either that the office of Vice Treasurer should be totally done away or that Mr. Boyd should be appointed to fill it. I could have a perfect reliance on him as Vice Treasurer: but I must here state to your Lordship that this is by much the most dangerous office in the Island to give away to a man in England, and I am by no means clear that it is an office that ought to exist. The Governor is the only responsible person to Government, and my opinion decidedly is that

the Treasury ought to be under his immediate eye. I have had a good deal of trouble and uneasiness on this subject, but I am now getting it very much into the state I could wish it.

When I am on this topic I beg leave to submit to your Lordship one general observation. I of course feel totally indifferent with regard to the nominations your Lordship may wish to make to this Island, but I have to entreat your Lordship when you do nominate them not to fix them in any particular place, but to state generally the situation in point of emolument they ought to hold. My reason for pressing this on your Lordship is that such nominations very frequently place men in situations for which they are totally unfit, and being appointed from home, it becomes both a matter of difficulty and delicacy how to act by them here, even after you have discovered their incompetency. . . .

38

CEYLON: GOVERNOR MAITLAND TO LORD CASTLEREAGH, 17 August 1808[1]

General regulations of the civil service

His Majesty's civil service in this Island is to be considered as consisting of three classes . . .

[The posts falling within each class are listed.]

No civil servant of His Majesty's Government can hold any office in the higher order of the first class vizt. Secretary to Government or Commissioner of Revenue, till he has actually served in the Island of Ceylon eight years, or in the second order of the same class till he has served seven years, with the exception to be hereafter stated.

No civil servant of His Majesty's Government can hold any office in the second class till he has actually served in the Island of Ceylon three years, with the exception hereafter stated.

The term of service alluded to in the two foregoing paragraphs is to be dated from the day of their arrival in this Island, and leave of absence to Europe is not to be considered as being part of that time. Leave of absence to commence the day of their embarkation, and to expire the day of their relanding.

It being recommended in the strongest manner by His Majesty's Government that the civil servants on this Island should make themselves thoroughly masters of the country languages, and as it appears to His Excellency that due attention has not been paid in many instances to this perhaps irksome but very important part of their duty —with a view to give every encouragement possible to the junior part of the service on this head, His Excellency directs that where any

[1] C.O. 54/28, Enclosure A. 1.

junior servant shall apply to Government to be examined on that head, and where he shall produce the certificate of the officers ordered so to examine him of his either being perfect master of the Portuguese, or his having made a fair and adequate proficiency in the knowledge of the Cingalese language, that on the production of such certificate such junior servant be held at the end of two years to be competent to fill a situation in the immediate higher class, and in like manner in the second class where any of His Majesty's civil servants undergoing a similar examination shall appear that he has made himself thorough master of the Cingalese language, and capable of both writing and speaking it, he shall then be considered as competent at the end of six years to fill a situation in the first class.

And His Excellency as a further encouragement directs that the salary of 400 Rixdollars per month attached to the head translator of Government be excepted out of all consideration of the salary attached to any class and is competent to be held by any servant of any standing qualified by his knowledge of the languages to hold it. . . .

[Regulations follow concerning promotion, disciplinary action, sick leave with pay, and the pension fund.]

39

CEYLON: GOVERNOR MAITLAND'S INSTRUCTIONS TO THE COLLECTORS OF REVENUE, 1808[1]

. . . The first great object of every collector is to make himself acquainted with the various districts in his province and the various headmen belonging to such districts by making frequent circuits through the whole of his province.

It is by adopting this measure alone that any collector can get at a thorough knowledge either of the real character of the headmen under him or of the real situation of the country over which he presides, and it is upon such occasions in particular that the judicial power attached to the collector ought principally to be made use of.

In all other instances generally speaking where there is a sitting magistrate and provincial judge all judicial discussions ought to be left to them; and the collector of revenue, except in very particular instances, ought not to exert such authority; but upon circuit where, from the circumstance of his being on the spot, it gives the people a facility of application and the collector an opportunity of obtaining ready information without moving the parties from the village to which they belong, it appears expedient that in this instance he ought to exercise the judicial authority vested in him and settle all such minute differences and broils as may come before him. . . .

Nor can it be too strongly stated both with a view to Government and the people governed that the collector ought in every practical

[1] C.O. 54/28. Enclosed (A. 8) in Maitland to Castlereagh, 17 August 1808.

instance to let the farms on the spot to which the rent to be let applies. . . .

The most ample means will be furnished to every collector of making advances of various kinds with a view to increase cultivation, and the collectors of revenue will be considered as executing the duties of their offices with zeal in proportion as they carry the principle upon which such advances are granted into effect.

This principle is by making advances at a rate and with a degree of ease hitherto unknown in the island, so as in fact to make it a very high premium on the occasion, to stimulate the inhabitants to an increased cultivation of rice—and the success of this measure will greatly depend upon the facility granted to the cultivators in obtaining such advances. . . .

Possessing, then, on the one hand the ready means of settling all the petty disputes in the different villages of his district without moving the inhabitants to a distant court, and on the other the means of supplying them with seed grain, clothing, and agricultural tools, and as far as may be, relieving them from the vexation of a tax gatherer by letting to the cultivators themselves the tithes of their villages, Government has a right to expect that such circuits of the collector must be and will be attended with the happiest consequences to the district over which he presides. . . .

It must be unnecessary here to add that Government expects that in all instances and on every occasion the greatest moderation be displayed to the whole of the natives by the collectors—that the power delegated by Government to the collectors be made use of with consideration and forbearance, and that they consider the only mode of ensuring the respect and conciliating the feelings of the natives to be by adopting a line of conduct at once firm but moderate and considerate.

Neither can it be necessary to state that the true interests of Government never can be to harass the natives with a view to immediate profit, but that on the contrary the sole object of Government is, and always ought to be considered to be, to ensure the prosperity of the island solely through the medium of generally increasing the prosperity and happiness of the natives under His Majesty's Government. . . .

40

CEYLON: GOVERNOR SIR ROBERT BROWNRIGG TO LORD BATHURST, 19 February 1818[1]

Kandy.

. . . With these feelings, disposition and habits on the part of the chiefs and inhabitants, it is hardly necessary to remark to your

[1] C.O. 54/70. *Sir Robert Brownrigg* had served in Jamaica and the Netherlands. In October 1811 he was appointed Governor and Commander-in-Chief of Ceylon. He conquered and annexed the Kingdom of Kandy in 1815.

Lordship that the state of the country must always be much unsettled till the power of the former is reduced to very narrow limits, and the minds of the latter are raised to a certain degree of independence consistent with submission to regular government.

To introduce such a system has been my greatest ambition and endeavour, during the last three years, and I had hoped, ere this, to have had it in my power to submit to your Lordship for the gracious consideration of the Prince Regent, a plan of equitable government, formed from a review of the ancient customs and laws of the country and modified by the liberal principles of British rule. To effect this has been the object of my instructions to the Board of Commissioners in Kandy as I have several times stated to your Lordship, and a report upon the various points submitted for their observations and remarks would certainly have been before me, had not the labours of Mr. D'Oyly been interrupted by this rebellion, which called his whole attention to watch the passing events, and the presence of the 3d Commissioner, Mr. Sawers, required at Badulla to manage the public interests in Ouva.

Upon conviction however that a change of the system, which has till this time been allowed provisionally to continue, of leaving the general executive government and a great portion of the judicial, to the native chiefs, is absolutely necessary to ensure our maintaining authority in these provinces, it is my intention, on the first restoration of tranquillity, to introduce a more intimate connection between the British Government and the people, by establishing a greater number of accredited agents in the different parts of them, and vesting those agents with more extensive powers, especially in those provinces which from the general insurrection of the inferior chiefs and inhabitants may well be deemed to have forfeited any claims to a strict adherence to the letter of that article of the Convention which may be construed as vesting so much authority exclusively in the chiefs.

These agents will in the first instance be chosen among the military officers appointed to command in the different provinces, by which arrangement the expense will be less during such time, as owing to the effects of the disturbances, the revenue can be but small, and any inconvenience of difference of opinion between the civil and military authorities, and delay in the latter to aid the orders of the former power will be avoided.

This is, of course, a mere outline of the plan, a full detail of which I shall submit to your Lordship in future dispatches as I find myself able to mature or effect it. An important feature will be, in it, a trial to substitute a fixed revenue from land, for the many trivial duties and oppressive services which are now burthening the inhabitants without benefit to the state. . . .

41

CEYLON: CHARLES HAY CAMERON TO LORD GODERICH, 10 August 1832[1]

19, Chester Street [London].

MY LORD,

In the Report I had the honour to address to your Lordship on the 31st January last, I recommended that each court of original jurisdiction in Ceylon should consist of one Judge and three assessors, and that the assessors should be chosen as the jurymen now are in the Maritime provinces.[2]

I stated to your Lordship at some length in that Report the reasons which appeared to me to justify the scheme of judicature described in it. But it has since occurred to me, that by a slight modification, that scheme may be made subservient to the very important and beneficial purpose of giving to a class of native functionaries the skill and integrity necessary to render them fit for becoming Judges of original jurisdiction.

If this object can be accomplished, a very great saving of expense will ensue. For the salary with which a native Judge would be amply remunerated is quite trifling in comparison with the amount necessary to tempt a competent European to undertake so laborious an office in so warm a climate, and in so distant a region.

But independently of the economical question, it is of the utmost importance with a view to the future stability of our dominion in the East, and the improvement of our native subjects in general, that the higher classes among them should be rendered morally and intellectually competent to fill offices of trust.

What I now propose is, that one of the three assessors in each court of original jurisdiction should be a permanently official person, receiving such a moderate salary as will be necessary to remunerate a native of respectable station for giving up his whole time to the public.

It would be scarcely worth the while of any suitor to attempt to bribe or intimidate a functionary having so little power to affect the fate of the cause, except by reasons founded in law and justice; and as all the functions of the official assessor will be performed under the eye of the European Judge and the public, an attempt on his part to sacrifice justice to his private interests could hardly end in anything but detection and disgrace.

Here, then, will be a public servant, obliged by his office to revolve

[1] *Parl. Papers*, 1833 (332), vol. xxvi, p. 385. *C. H. Cameron*, a disciple of Bentham, had reported in January 1832 on the judicial establishments and procedure in Ceylon after he had served on the Commission there with Sir William Colebrooke.

[2] Cameron refers to his Report on the judiciary in *Parl. Papers*, 1832 (274), vol. xxxii, p. 78, which accompanied that of Colebrooke on the general administration.

constantly in his mind the maxims of law and morality, and to assist, by his opinion and advice, in the application of them to the real business of life, who will at the same time be removed, by his peculiar position, from all temptation to pervert those maxims to purposes of chicane, fraud or oppression.

It seems difficult to imagine a situation better calculated to strengthen the principles of morality, by exercising them in the solution of real and practical questions, and at the same time to avoid the mischiefs which might result from the insecure hold which those principles have hitherto acquired over the minds of the natives in general.

A native who has for some years been subjected to this discipline, and who has gone through his noviciate with credit, may, I think, be very safely placed in the more arduous and responsible office of a Judge of original jurisdiction, and by such an appointment four-fifths of the salary necessary to remunerate a European Judge will be saved to the public, the honourable ambition of the upper classes of natives will be safely gratified, and the great mass of the people will be bound by ties of affection to a Government which ceases to withhold offices of power and emolument from its native subjects, as soon as they become qualified to fill them with advantage to the native community.[1] . . .

42

JAVA: PROCLAMATION BY STAMFORD RAFFLES, ESTABLISHING A NEW SYSTEM OF LOCAL ADMINISTRATION, 15 October 1813[2]

[Batavia.]

The Honourable the Lieutenant-Governor in Council has, after the most minute consideration, deemed it advisable to establish an improved system of political economy throughout the Island, with the intention of ameliorating the condition of all its inhabitants, by affording that protection to individual industry, which will ensure to every class of society the equitable and undisturbed enjoyment of the fruits of labour: and while it is confidently expected that private happiness and public prosperity will be advanced under the change of system, such alterations and amendments will be hereafter adopted as experience may suggest, or the improving habits and manners of the body of the people may require.

The following principles form the basis of the new arrangements, and are made public for general information.

1. The undue influence and authority of the native Chiefs have

[1] The new Instructions given to Sir Robert Wilmot Horton as Governor in 1833 followed the same form as those issued to Sir Benjamin D'Urban, pp. 115–19 above.

[2] *Memoir of Sir T. S. Raffles*, by his widow, p. 216.

been restricted; but Government avails itself of their services in the important department of the native police, which will be arranged upon fixed principles, adapted to the habits and original institutions of the people.

A competent provision in lands and in money has been allotted to such Chiefs: and it therefore becomes both their duty and their interest to encourage industry, and to protect the inhabitants.

2. The Government lands will be let generally to the heads of villages, who will be held responsible for the proper management of such portions of the country as may be placed under their superintendence and authority. They will re-let these lands to the cultivators, under certain restrictions, at such a rate as shall not be found oppressive; and all tenants under Government will be protected in their just rights, so long as they shall continue to perform their correspondent engagements faithfully; for it is intended to promote extensive industry, and consequent improvement, by giving the people an interest in the soil, and by instituting amongst them an acknowledged claim to the possession of the lands, that they may be thus induced to labour for their own profit and advantage.

3. The system of vassalage and forced deliveries has been abolished generally throughout the Island; but in the Batavian and Preangu regencies such a modification of the former arrangements has been carried into execution as it was found practicable, under existing circumstances to introduce. . . .

4. To encourage the cultivation of so important an article of export as coffee may become, when the trade of Europe and America may be thrown open to free competition, Government have stipulated to receive any surplus quantity of that commodity from the cultivators, at a reasonable and fixed rate, when a higher price cannot be obtained for it in the market.

5. To extend free trade and commerce, and to promote a spirit of enterprize and speculation amongst the inhabitants, the Bloom Farms have been abolished, the duties upon the principal articles of export have been taken off, and it is intended to modify and amend the custom-house regulations before the 1st of January. The toll-gates and transport duties of the interior have been diminished as much as possible, and in the gradual progression of improvement they will be finally abolished.

6. Every facility will be afforded towards obtaining teak timber for the construction of small craft, and of such additional tonnage as, upon the improved system, will be undoubtedly required.

7. Government have taken upon themselves the exclusive management of the salt department. It appears that the inhabitants in most parts of the Island paid a very irregular and exorbitant price for this necessary article of consumption; while the system adopted by the farmers was radically vicious, and equally oppressive and vexatious

to the people, as it was detrimental to the immediate interests of Government.

Such an improved system for the supply of salt will be immediately adopted as may appear advisable; and in this and every other arrangement, the Government propose the advancement of the interests and the happiness of the people at large, and the promotion of the public prosperity of this colony. . . .

43

JAVA: STAMFORD RAFFLES: MINUTE ON ADMINISTRATIVE REFORMS, 11 February 1814[1]

[Buitenzorg.]

. . . Until the barriers that existed against individual industry among the people were removed, until the cultivator of the land obtained an actual security of his crops, no good result could possibly have been expected. It was essential that the rents should be collected with as few intermediate agents as could be done consistently with established usages; or, at any rate, that the exclusive influence and authority of the native chiefs should be broken through: and it will be evident that, if feudal services had been abolished, without rendering the peasantry more immediately dependent upon and connected with the Government, the authority of the native chiefs would have been strengthened, instead of that reduction of their real influence being effected, which it was a primary object to introduce. . . .

The Regents are, in future, to be considered as the chief native officers in their respective districts; but it will be obvious that, by the new arrangement, they must be effectually deprived of all political or other undue influence: and as the tranquillity of the country is an essential and necessary object in establishing the new order, it is presumed they may be most advantageously employed in the department of police, while it must not be forgotten that the watchful attention of the Resident must ever be directed to their conduct in the execution of this duty. . . .

To return to a consideration of the manner in which the office of village chief is instituted, it is only necessary to observe that, in addition to what is stated in the Reports which I have in this place introduced, I am assured by the Sultans of Cheribon, and am convinced from personal enquiries in the adjoining districts of Tagal, that the right of election is still recognized among the Javanese. The appointment to this office is invariably made, if not by the election of

[1] T. S. Raffles, *Minute on the Introduction of an Improved System of Internal Management and the Establishment of a Land Rental on the Island of Java*, Lond. 1814, pp. 20, 31, 112, 163, 168.

the villagers, generally from among themselves, and with their concurrence. It is a common practice for the people of a village, even where the right of election is not in use, to represent in a body the conduct of the then chief; and it has always been considered binding on the Regent, as it must now be on the Resident, to remove him, if the complaints are justly founded. . . .

I have been thus particular in defining the mode in which the head of a village is appointed, because on this point has appeared to hinge the principles on which our future regulations must be established.

The right of election on the part of the people, gives to them so much real liberty, and is an institution apparently so peculiar to this Island, and so congenial to the genius and principles of British Government, that too much stress cannot be laid on it. While the people are secured in this right, they can never be considered as the abject dependants of a village tyrant; and the village chief is what he ought to be, the representative, rather than the landlord of the village.

In my instructions to the Residents at Cheribon and Tagal, as well as in my communications to Mr. Hopkins and Mr. Lawrence, the Board will observe that considering the head of the village clearly an elective officer, he was only to be acknowledged as the agent of the village; for, as observed particularly in my instructions to Mr. Lawrence, 'to establish the *Bakal* as the hereditary landholder, and to allow him to sub-let the land of a village at pleasure, would be to grant him an authority and independence which never could have been expected, and to arm him with power prejudicial to the happiness of the people, and repugnant to the object which Government had in view towards the amelioration and improvement of the mass of the population'.

All classes of persons, between the heads of the villages and the Sovereign, being thus considered as officers of Government, and as possessing no permanent interest whatever in the land, it follows that the actual cultivators in each village are the class most entitled to consideration in the settlement of the revenue. . . .

The tranquillity of the country and the duties of police have been provided for by preserving the original constitution of the villages, and continuing the superintendence and responsibility in the hands of those whose rank enables them to exert a due influence and to command respect. For the administration of justice, the duties of the Resident, as judge and magistrate, have been considerably extended. In civil cases, the mode of proceeding and the establishment of petty courts are founded on the practice of the country; in criminal, the jurisdiction and authority of the Resident has been considerably extended. Hitherto, his duties had been strictly confined to police; but considerable delay and injury to the parties accused, as well as to the witnesses, had been occasioned by allowing all causes of a higher nature to lie over for the Court of Circuit; and as the separation of the

collection of the revenue would afford more time to the Resident, it was resolved to extend the criminal jurisdiction of the Provincial Courts to all cases in which the punishment for the crime alleged does not amount to death. In these courts, which instead of being termed *Landraad*, as heretofore, are now styled the *Resident's Courts*, the *Punghooloo*, or chief priest, and the superior *Jacksa*, or native fiscal, attend to expound the law. The *Bopatis*, or Regents, with their *Patehs*, are present, to aid and assist the Resident with their opinion in the course of the investigation, but they have no vote in the decision. If the opinion of the law officers appears to the Resident to be according to substantial justice, and is in accordance with his own opinion, the sentence is immediately carried into effect, provided the punishment does not extend to transportation or imprisonment for life.

In cases where the punishment adjudged is more considerable, or wherein the opinion of the law officers may be at variance with that of the Resident, a reference is to be made to the Lieutenant Governor; and in all cases where the punishment for the crimes charged is of a capital nature, the prisoner is committed to jail, to take his trial before the Circuit Judge. . . .

In the mode of proceeding, they are to avoid the formalities of the Roman law. A native jury, consisting of an intelligent foreman and four others, decide upon the fact; the law is then taken down, as expounded by the native law officers, and the sentence, with the opinion of the Judge of Circuit, and on the application of the Dutch and Colonial law on the cases, is forwarded for the modification or confirmation of the Lieutenant Governor.

Hitherto the jury required by the Court of Circuit did not exceed five in number, and these, as justly observed, 'were chosen from a class of men (Europeans) who had no common feelings, no common rights; who were, in no shape or consideration, the equals of the person tried. The law was the law of Europe. The Jury, under their best prejudices, were influenced by that law; and its meanings and penalties were applied to people who reason in a different manner, and who often never knew anything of the laws of Europe, before they found themselves its connected victims'.

The general jurisdiction of the Courts of Justice at Batavia, Samarang, and Sourabaya, is now confined to Europeans and foreigners and to the inhabitants of those towns and their suburbs; and a line has been drawn which distinctly separates the police of the country from that of the towns.

Collections of the different law-books and institutions of the country are now making, and a native establishment has been formed at Buitenzorg, under my immediate superintendence, for examining and revising the judicial proceedings, and for affording to the native inhabitants that facility of appeal, which the remoteness of the Government, and the rules of Dutch administration, did not formerly

admit of, but which is so consonant to the principles on which the new system of internal economy has been established. . . .

If I look forward to the effects of the change of system, as it may contribute to the happiness of the people, the improvement of the country, and the consequent increase of the public revenue, the result is incalculable. Let the present wretched state of the Dutch metropolis of the East be contrasted with the flourishing state of the British establishments, wherever they have been formed, and it will speak a volume in favour of the change. Desolation and ruin would seem to have tracked the steps of the Dutch power wherever it has extended;—individual prosperity and national riches have accumulated under the English. The principles of government are radically different, and with such experience before us, can it be a question on which side we shall rely? . . .

In the explanation which I have attempted to give of the state of landed tenure, I have only endeavoured to establish sufficient to justify the revenue system which I have dictated, and have avoided a consideration of those minute and interesting particulars, which will, no doubt, be found materially to vary in different parts of the Island. These can only be obtained with precision after a longer acquaintance with the subject and the country; but much may be expected to result from the statistic surveys now on foot, while abundant materials will no doubt be eventually forthcoming, for a separate and distinct report on this point alone. In the mean time, the basis which I have assumed is not likely to be shaken. I have laid it as broad as practicable, and, if I am not mistaken, it will maintain a noble superstructure. . . .

The whole is, however, now before the Board, and open to the amendment and revision of the Superior Authorities. On the part of the Javanese, I am justified in asserting that they feel the present interference in favour of the cultivators of the soil as a revival of that due consideration to the interests of this important class of the community, which has not existed since the days of *Majopait*: and I have the satisfaction to believe that nothing will be found to have been done, or to be in progress, but what will be useful, and a necessary preliminary to any more permanent or approved system which may be ordered, and which may have for its object justice to individuals, the improvement of mankind, and the prosperity of the Government, founded on the mutual advantage of the people. . . .

44

EAST INDIES: SIR STAMFORD RAFFLES: BRITISH INTERESTS IN THE EASTERN ARCHIPELAGO, 1817[1]

. . . No provision was made in our agreements with the native princes for the contingency of the colonies reverting to Holland. The language which we held out to them was that of a Government competent to make agreements in perpetuity; without such a language we never could have done what we have done for the Eastern Islands. Our leading measures, of which the Dutch are now deriving all the benefit in the augmentation of commerce and revenue, could never have been effected except the natives had relied on our securing to them a perpetuity of those rights which we had recognized. . . .

Is a whole nation of between four and five millions, industrious, obedient and strongly attached to us, indebted to our Government for emancipation from feudal bondage and for the right of civil freedom and security; a people interesting for their simple manners, and amiable for their virtues, to be abandoned and cast aside without notice or remembrance?

The British Government considered the native princes as independent sovereigns and treated with them accordingly. The Dutch have refused to guarantee our treaties and appear to consider those faithful allies to the British nation as mere vassals who are now subjected to their vengeance and rapacity.

If this be unjust with respect to the Settlements actually subjected to European control, what must be thought of it with respect to those States which have risen into importance and maintained their independence by means of their connection with Britain in opposition to the restrictive policy of the Dutch? The Dutch aim at an absolute despotism over the whole Archipelago, with a view to exercise it oppressively. We have encouraged sentiments of freedom as far as was compatible with tranquillity, and have led the natives to rely upon us for the continued enjoyment of that portion of independence which we allowed them. They look upon that allowance as a grant and will certainly despise and upbraid us if we permit that grant to be revoked by the Dutch. . . .

Of little use, however, would be the recognition on the part of the Dutch of our engagements with the natives unless we were at hand to watch over the fulfilment of them. . . .

[1] B.M. Add. MSS. 31,237, ff. 245–57 *passim*. A paper for Canning. Copy enclosed in Raffles to Vansittart, 23 October 1817. For Raffles's comments on commercial policy in this same memorandum, see the extracts printed pp. 68–71 above.

45

SIERRA LEONE: REPORT FROM THE COMMISSIONERS OF AFRICAN INQUIRY, 1811[1]

. . . All acts, orders, and every regulation of Government, having been till lately issued in the name of the Governor and Council, it would seem that the Governor can do nothing without their consent, and therefore he must be cautious, somehow or other, to preserve a majority, in order that the common business of the colony may be carried on. That a power so totally incompatible with the condition of Sierra Leone may be assumed and insisted on occasionally by the Council cannot be doubted, since within this year, a protest was made against a Public Act of the Governor, by a young man, upon the mere authority of his personal assertion (which could not be supported) that he had a right to a seat in Council. This claim was afterwards urged in such a manner, and he was so backed secretly, by several signatures of a number of others, that it was found absolutely necessary to send him home, to preserve the peace of the colony.

All this indisputably proceeded from an idea that a seat in Council (and as in this instance a mere claim to a seat) includes a right to discuss every public measure with the Governor, to control him, and to share his power, leaving, however, all the responsibility upon his head.

The peculiar circumstances of Sierra Leone require much promptitude and vigour in the Government; and it is evident, that neither of these points can be obtained, if the Council have the power (as they no doubt will occasionally have the inclination) to thwart the Governor, or impede his views by tedious and trifling discussions on every subject, and by oppositions made chiefly to display their own weight. To avoid these inconveniences, it is proposed, that the power of Council should be limited to their voting, when any new law is to be enacted, or an old one repealed; to sitting with the Governor to hear appeals; and as Judges at the Court of Quarter Sessions, in the absence of a professional Judge.

A point of law respecting the Governor and Council should be finally settled. The Governor and Council when they act, do not vote as two separate authorities, but together. It is therefore contended, that all those acts which the law requires to be done by the Governor and Council, may in the event of the death or absence of every

[1] *Parl. Papers*, 1816 (506), vol. vii B, p. 127: Appendix 22 to Report of Select Committee on African Forts, 1816. The Sierra Leone Company had relinquished their charter in 1807, and their lands and possessions were vested in the Crown. For the constitutional powers of Governor and Council in 1791 see *Sierra Leone Studies*, vol. xviii, pp. 44 ff. The Commissioners were far more critical of the forts and factories under the Company of Merchants trading with Africa than of Sierra Leone, but the Company was able to muster sufficient parliamentary support to postpone constitutional change.

Member of Council, be legally performed by the Governor alone, he being then the only representative of the collective body, and that his act on this point of view, is to be taken as the act of the Governor and Council. . . .

46

NEW SOUTH WALES: REPORT FROM A SELECT COMMITTEE OF THE HOUSE OF COMMONS

10 July 1812[1]

. . . He is made Governor and Captain General, with the most enlarged powers, uncontrolled by any Council, with authority to pardon all offences (treason and murder excepted), to impose duties, to grant lands, and to issue colonial regulations. It is in evidence from Governor Bligh that to the breach of some of these regulations, issued at the sole will of the Governor, a punishment of 500 lashes is annexed, and to others a fine of £100. The manner in which these extensive powers have been used has not always been such as to give satisfaction to the colony; nor can it be expected that where so much authority and responsibility are thrown into the hands of one man, that his will however just, and his administration however wise, will not at times create opposition and discontent amongst men unused, in their own country, to see so great a monopoly of power. Under this impression, your Committee think it right to recommend that a Council be given to the Governor, for the purpose of sharing with him in the responsibility of the measures which they may think necessary for the security or prosperity of the colony. It may perhaps be doubted how far it will be wise to limit the authority of the Governor over a colony in which, more than any other, the Government ought to be strong and unfettered; but the views of your Committee would to some degree be obtained, even though the Council appointed had no other power than that of protesting against any measures or the Governor of which they might disapprove; and of transmitting their protests to the Secretary of State. The acquiescence of the Council would give popularity to the measure of which it approved, and its expressed disapprobation might have the effect of checking such as were evidently inexpedient.

The Governor has the power of making grants of land; and your Committee have heard with surprise that this power has, in one instance at least, been used in a manner, to say the least of it, liable to much observation. It has been stated in evidence that a grant of land, to the amount of 1,000 acres, was made by a Governor to the person appointed to succeed him, who, immediately on assuming the

[1] *Parl. Papers*, 1812 (341), vol. ii, p. 580. This Select Committee, appointed to consider transportation, sat from February to July 1812 under the chairmanship of the Hon. George Eden.

government, made a similar grant to his predecessor. Upon this your Committee must suggest that no Governor ought on his own account to enter into farming speculations; his salary ought to be sufficient to support him; he ought never to look to other and indirect means of enriching himself. . . .

47

N.S.W.: LORD BATHURST TO GOVERNOR LACHLAN MACQUARIE, 23 November 1812[1]

. . . The next important point referred to by the Committee[2] are the judicial establishments of the colony. The construction of the Courts of Judicature, and their incompetence satisfactorily to discharge the duties imposed upon them, have engaged the serious attention of His Majesty's Government. Their establishments, when they were originally introduced, were perhaps as good as any which could have been at that time recommended; but the settlement appears now to have outgrown them; and the inconveniences, which possibly are at present not very severely felt, are likely to increase and occasion serious embarrassments. . . .

With the growing prosperity of the colony, the number of the causes has rapidly increased to an embarrassing extent. The civil cases now involve property to a considerable amount. . . .

In order to obviate the embarrassment arising from the number of causes, it will be expedient to divide the labour. It is therefore intended that there should be established two Courts in the settlement, one the Supreme Court, the other the Governor's Court, to be constituted as hereafter will be stated. . . .

It is however a question, worthy of consideration, how far in criminal cases the trial by jury may not be advantageously introduced. It is not necessary to dilate on the beneficial effects to be derived by that system of dispensing justice, but before it is adopted in New South Wales it is very necessary gravely to consider how far the peculiar constitution of that society of men will allow of the application of the British constitution. Are there settlers in number sufficient, capable, and willing, to undertake the duties? In a society so restricted, is there not reason to apprehend that they may unavoidably bring with them passions and prejudices which will ill dispose them to discharge the functions of jurymen? The great principle of that excellent institution is that men should be tried by their peers. Would that principle be fairly acted upon, if free settlers were to sit in judgment on convicts, and that too in cases where free settlers

[1] *Historical Records of Australia*, Series I, vol. vii, Sydney 1916, pp. 672–5. *Brigadier-General Lachlan Macquarie* had served in America and India. In 1809 he became Governor of New South Wales. For Macquarie see M. H. Ellis, *Lachlan Macquarie*, Sydney 1947.

[2] Bathurst is commenting on the report of the Commons Committee on transportation. See pp. 158–9 above.

Courts does not deviate from that of the corresponding tribunals in England, further than the peculiar circumstances of the colony may require. Now it may be said that, by conferring on the magistracy in the case of servants' wages, a jurisdiction similar to that with which Justices of the Peace are invested in similar cases in England, the Governor was only calling into exercise this branch of the royal prerogative. To this argument I do not know that a satisfactory answer could be given, had the Governor been authorized by his Commission to exercise this power. I conceive, however, that his Commission did not contain any authority to constitute Courts of Justice, and therefore that his Proclamation cannot be successfully defended upon this ground.

Upon the whole, therefore, I incline to think that the statute, 20th Geo. 2nd, c. 19, is not in force in New South Wales, and that the Governor's Proclamation was not valid or binding. I therefore think that the judgment of the Judge Advocate was right. . . .

49

N.S.W.: ADDRESS OF FAREWELL TO GOVERNOR SIR THOMAS BRISBANE, 26 October 1825[1]

. . . While we are bidding Your Excellency farewell, we feel that we can entirely rely upon your watchfulness to embrace all opportunities which may offer, on your return, of suggesting to His Majesty's Government the pressing necessity which exists for the immediate establishment, in this colony, in all their plenitude, of those two fundamental principles of the British constitution, *Trial by Jury*, and *Taxation by Representation*. We are not ignorant that, upon both these subjects, Your Excellency's opinion has long been accordant with the general opinion of the colony. Your Excellency cannot but have felt the inconvenience of directing the efforts of a free people, left at large as it were to guide themselves by the analogies and recollections of English Law and English usage, in the absence of their ancient free institutions; a people whose good sense, moral feeling, and patriotism alone have prevented them from a louder expression of their impatience, when their English prejudices have been outraged by the unavoidable vexations of a Government, so anti-British in its structure and operation that it would be difficult to designate it by a just name.

With respect to *Trial by Jury*, the magistrates of Sydney have already expressed the voice of the people in their answer to the patriotic

[1] *H.R.A.*, Series IV, vol. i (1922), pp. 629–31. *Sir Thomas Brisbane* had served in the West Indies and in the Peninsula. In 1821 he was appointed to succeed Macquarie as Governor of New South Wales, where, in contrast to his predecessor, he encouraged the free emigrants in preference to the emancipists.

interrogatory put to them by Your Excellency; and as to that other great first principle of the British constitution, *Taxation by Representation*, we are aware how much Your Excellency has needed the assistance of a deliberative Assembly which, to prevent the influence of party faction, ought to consist of at least one hundred members, a number which our population can readily furnish of men in every way qualified to discharge that duty to their fellow colonists.

The inhabitants of New South Wales, composed exclusively of British-born subjects and their descendants, now amount to nearly fifty thousand: a population exceeding the entire white population of the colonies in the West Indies; and, as far as good morals are necessary for the enjoyment of enlarged civil rights, Your Excellency's extensive acquaintance with the other colonies must have convinced you that we excel them all in this great particular. The orderly state of Sydney, although a seaport, the great attention and encouragement which schools and religious societies receive from all classes, and the peace and order of our streets on the Sabbath day, all demonstrate that the seeds of religion and good morals have taken deep root in Australia.

We will not, however, hide it from the representative of our most gracious Sovereign that there are colonists of rank and wealth here, and of very great influence at home, who are inimical to the establishment in New South Wales of the British constitution. These persons were also unfriendly to the late substitution of English Law, in the place of the arbitrary regulations of preceding Governors. But the history of every institution, which has eminently blessed mankind, will show the impolicy of withholding a great and general benefit, until those for whom it is calculated should be unanimous in their petition to obtain it. The *very goodness* of a thing will, of course, be ever considered its greatest objection by those who are conscious that their own aggrandizement is mainly attributable to the *absence* of that good. The number of such persons, however, is not considerable; and we trust that Your Excellency will make it known to His Majesty's Government that nothing can render the colony so soon independent of pecuniary aid from the British Treasury as a House of Assembly, elected by the free householders and free settlers; nor can anything as soon as the Trial by Jury universally diffused put an end to those political dissensions which originated with the late Judge of the Supreme Court, were strengthened by the partial investigation and erroneous report of the late Commissioner of Enquiry, and are kept alive by the misconceptions and misguidance which our lately appointed Colonial Agent labours under in consequence of the misrepresentations of the party here, with whom he is more immediately connected.

Your Excellency has been amongst us long enough to be satisfied that the great superiority of a popular and deliberative Assembly, in

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Your Excellency has been amongst us long enough to be satisfied that the great superiority of a popular and deliberative Assembly, in

connection with a Council, over a Legislative Council alone, consists mainly in this; that the members of a Council[1] are too elevated in society, too far removed from the habits of humble trade and domestic manufactures, to be at all familiar with the unphilosophical data and ignoble details without which, however, local laws will not only be impracticable in their operation, but absurd in their nature. Upon great questions of national jurisprudence, a Council of real statesmen is doubtless desirable; but in the British colonies, the jurisprudence of England being established, a minute acquaintance with the habits and circumstances of the operative classes of the people is all that is required in the framers of Colonial Regulations, and such knowledge can only be brought into action for the public weal by an elective Assembly. . . .

50

N.S.W.: INSTRUCTIONS TO GOVERNOR RALPH DARLING, 17 July 1825[2]

. . . 2nd. Whereas We have thought fit that there should be an Executive Council for assisting you, Our Governor, or the person administering the Government of Our said territory for the time being, We do by these presents nominate and appoint the undermentioned persons to be of the Executive Council of Our said territory, that is to say the Lieutenant Governor for the time being of Our said territory of New South Wales and its dependencies, the Chief Justice for the time being of the Supreme Court of New South Wales, the Venerable the Archdeacon of New South Wales for the time being, and the Colonial Secretary of New South Wales for the time being. . . .

[Normally the Governor is to act with the advice and concurrence of the Council except in cases of urgency.]

Provided also that nothing herein contained shall prevent your exercising the several powers and authorities aforesaid or any of them without the advice and concurrence of Our said Council, in any case or upon any occasion which may not appear to you to be sufficiently important to require their assistance and advice, or which may be of

[1] New South Wales had been granted a Legislative Council by an Act of 1823; but no additional instructions were issued to Brisbane relative to any modification of his executive powers.

[2] *H.R.A.*, Series I, vol. xii (1919), pp. 108–11. *General* (*Sir*) *Ralph Darling* had served in the West Indies, India, and Spain. He had commanded the troops in Mauritius from 1818 to 1823 and had acted for a period as Governor in Farquhar's absence. In 1825 he was appointed to succeed Brisbane as Governor of New South Wales. The clauses of these Instructions which follow the standard pattern have been here omitted; see Instructions to Lord Charles Somerset and to Sir Benjamin D'Urban, pp. 111–14, 115–19 above.

such a nature that in your judgment Our service would sustain material prejudice by consulting Our said Council thereupon. . . .

And whereas by a certain Act of Parliament, passed in the fourth year of Our reign, entitled, 'An Act to provide until the first day of July, 1827, and until the end of the next session of Parliament for the better administration of justice in New South Wales and Van Diemen's Land, and for the more effectual Government thereof, and for other purposes relating thereto', it is enacted that it shall be lawful for Us, in manner therein prescribed, to constitute a Legislative Council, to consist of such persons as therein mentioned, and that the Governor or Acting Governor for the time being of the said colony shall have power and authority to make laws and ordinances for the peace, welfare and good government of the said colony; and it is thereby provided that no law or ordinance shall be passed or made, unless the same shall first by the said Governor or Acting Governor be laid before the said Council at a meeting to be for that purpose convened in manner therein mentioned. And whereas, in pursuance of the said Act of Parliament, We have, by warrant under Our Sign Manual, constituted and appointed a Legislative Council, consisting of such persons as are named in the said warrant, now We do hereby strictly require and command you to proceed in the making of laws and ordinances for the peace, welfare and good government of the said colony of New South Wales with the advice of the said Legislative Council, in the manner and form prescribed in and by the said Act of Parliament.[1] . . .

51

N.S.W.: GOVERNOR RICHARD BOURKE TO E. G. STANLEY, 25 December 1833[2]

Sydney.

SIR,

The difficulties I have lately encountered in Council in carrying through the Jury Bill, which I have had the honour to represent in a former Despatch, and the necessity under which I found myself of opposing measures apparently dictated more by private or party feeling than by a comprehensive view of the public advantage, have led me to request your attention to a few observations on the composition of the Legislative Council as it now stands, and on the importance of the duties it has to perform.

I would first briefly bring to your recollection the fact that there are

[1] A further Act (9 Geo. IV, cap. 83) enlarged the Legislative Council, facilitated the introduction of trial by jury, and deprived the Governor of his power to pass laws (in normal circumstances) without the assent of the majority of the Council.

[2] *H.R.A.*, Series I, vol. xvii (1923), pp. 302–6. *(Sir) Richard Bourke* had succeeded Sir Ralph Darling as Governor of New South Wales in 1831.

two parties, into which the community of New South Wales is more or less divided; these parties are usually designated Emigrants and Emancipists, although the respective bodies are not confined to that exact description of persons, for, in connection with the latter, are to be found a great number of free emigrants, and generally those who advocate liberal principles. I could not perhaps better convey a right impression of these two parties than by mentioning the strong interest which is felt in the colony in all the great events which take place in England, and that the sentiments of the liberal party here are with His Majesty's Government in all those measures of public improvement which they are happily accomplishing. The existence of this general division of parties in the colony has been frequently recognized in Parliament, and would seem to have formed one of the strongest grounds for departing so widely from the laws of England in the creation of the Legislative Council, composed of fifteen persons wholly appointed by the Crown, and in the institution of a jury consisting of seven military officers. By the appointment of the latter, His Majesty's Government contemplated and effected the erection of an impartial though not a popular tribunal for the trial of offenders, and by reserving the nomination of the members of Council it was doubtless proposed to obviate the ill effects, which were apprehended from a preponderance of the Emancipist Party, if the choice were left to popular election. It has happened however that the selection of the unofficial members of the Council has been made almost entirely from the opposite side, and the official members being for the most part inclined the same way, the evil of legislating for the whole community by means of a Council composed of one party exists at this moment in full force, and is only checked by the power possessed by the head of the Government to prevent the introduction of any Bills but such as he approves. This power is sometimes ineffectual, and, it being open to the members to propose amendments, occasion is offered for party feelings to operate, and the consequence of this state of things is that, in every question at all partaking of a popular character, the unofficial members with but one exception are usually opposed to it. . . .

The mistrust of the legislative body, which is entertained by a large portion of the people, including in the number persons of integrity, wealth and industry, appears in the numerous publications which issue from the colonial Press. The Press of this colony is free and may therefore be supposed to speak generally the sentiments of the public which supports it; and, as it puts forth eight newspapers in the week, each at so low a price as to leave it in the power of almost everyone to purchase, it follows that it exercises a great influence over the whole of the reading as well as the uninstructed classes of the population.

One of the primary objects of appointing a Legislative Council was to give the Government a wider and firmer basis on which to rest, to

secure a point of contact with the colonists from which it might derive wholesome counsel and public support. But, by the present constitution of that body, this object not only fails but a contrary effect is frequently produced. It would therefore tend to facilitate the operations of Government and lighten the weight of responsibility laid upon the Executive, if some portion of popular sentiment were infused into the Council. This, however, cannot be effected but by removing some of the present members which would be deemed arbitrary, or by their resignation which is improbable, or by an amendment in the N.S. Wales Act which H.M.'s Government would probably desire to avoid.

I would propose, as a partial remedy for the evil complained of, to open the doors of the Council Chamber to as many strangers as might be conveniently admitted: but to this measure there are some weighty objections. I will mention one. The Act of Parliament requires the Governor to preside at all meetings of Council unless prevented by illness or other adequate cause. It is necessary and useful that, in a Council formed for enacting laws, the projects and measures of the Government should be freely canvassed; and, when the discussions are open to the public, it is almost certain that a double portion of scrutiny will be exercised, and a considerable force of expression employed in canvassing those measures. This is among the advantages to be expected from open discussion. But it does not, I believe, happen in any assembly of the kind, which is open to the public, that the Governor or ruler of the state is compelled to preside, when measures of government are under discussion. In his character of President, the Governor cannot debate, and if this privilege were allowed him, he could not exercise it without loss of dignity. To be present and silent and acting as a moderator, when his own character and conduct are discussing, is a condition to which no person should be reduced, and more especially one who to be of any use should be regarded by the public with deference and respect. . . .

I would suggest the enlarging by Act of Parliament the present Council to about 24 members, two-thirds of which should be elected by the colonists for the most populous districts in a given proportion according to the number of the inhabitants, whilst the remaining third and the President should be named by the Crown[1]. . . .

[1] For reform on similar lines to Bourke's suggestion here New South Wales had to wait until 1842, when a Council of 12 nominated and 24 elected members was established by statute.

B. PROBLEMS OF REPRESENTATIVE GOVERNMENT

1

ROYAL INSTRUCTIONS TO THE PEACE COMMISSION, 12 April 1778[1]

[The Commissioners are to assure the American leaders that any proposals which the Commissioners consider reasonable will be immediately referred to the British Government and Parliament. The proposed conditions for a truce are then detailed.]

. . . It being to be understood that the design expressed by Our subjects in America, to return to their condition in 1763, is the principle of the present negotiation, that proposition, in general terms, must be agreed to at once. But the explanation of it will lead into some discussion, and it is very essential not only to evince the good faith of Great Britain, but, for the successful result of the treaty, to proceed by ascertaining in the first place the demands of Our subjects in America, and the extent to which we mean to acquiesce in those demands, reserving the terms to be proposed to them as a subsequent consideration.

If they should require any security that the benefits held out to them by the 11th and 12th ch. of the 18th of Our reign, should not be at any future time annulled or revoked, the demand is not to be rejected. But it would be proper to place it in the class of those demands which have been made to Us and Our two Houses of Parliament for the alteration and improvement of their constitution, which Great Britain is desirous to consider with the utmost attention: and it will be reasonable to put them upon proposing the security they may require.

As to contribution, it is just and reasonable that you should remind those with whom you treat that you are led to hope they will now make good, in the name and on the part of our subjects in America, their own repeated declarations of their readiness to contribute to the public charge, in common with all Our other subjects, seeing they are to enjoy the common privileges of all Our other subjects: and they are the rather called upon to exercise this act of justice, as such contribution would now be a mere act of free will.

If they are disposed to consider that idea without prejudice, they will find their advantage in fixing upon a ratio by which the amount of a contribution may be regulated.

The sum required will be moderate. It may be taken upon a ratio of their numbers, their tonnage, or exports. The increase of the

[1] Printed in *Carlisle Papers* (H.M.C. 1897, 15th Rept., Appendix Part VI), pp. 322–33. The Commissioners were: the Earl of Carlisle, Viscount Howe, Sir William Howe, William Eden, and Capt. George Johnstone, R.N.

payment can only be in proportion to the increase of their abilities: and it becomes the interest of Great Britain to promote the industry, the trade, or the population of Our subjects in America. If, however, no such specific measure should be agreed upon, they will probably be easily brought to see that it would be their own interest to maintain some force at their own charge; and as it was granted in the preliminary articles, that no standing army should be raised or kept within the said colonies, except in the cases therein mentioned, you may urge the propriety of providing for the establishment and maintenance of a provincial force, regular or militia, for the defence of the said colonies, the preservation of the public peace, and the protection and security of Our subjects.

You will therefore enter into the consideration, and settle the number of troops proper to be kept on foot in each colony, together with all regulations necessary for the raising, exercising, clothing, and paying the same. But they are to be under Our command, or under the command of those whom We may think fit to appoint, and all commissions are to be in Our name, and by Our authority.

If obstacles should arise to either of the modes in which the point of the contribution to the common defence hath been stated, there is still another mode in which the proposition may be put.

There are duties payable in the colonies under Acts of the Legislature, passed long before 1763, to which they never made any objection: the port duties, postage, the escheats, the forfeited grants of lands, and the quit-rents. These, though not considerable in the state of collection which will ever prevail while they are to be accounted for here, would form a very considerable article of revenue, if collected under a vigilant authority upon the spot. In lieu of all these, and upon a cession of them to the respective colonies, let their assemblies grant a certain sum for the service of the public, and for a certain term.

If all these points should fail, you must then propose to let the question rest in oblivion, and to secure them in fact by concessions upon the repeal of such Acts as you have power to suspend, and such others as they may represent as fit to be repealed. And if the suspension of the Declaratory Act should be urged as a condition on their part, you may propose to supersede the necessity of it by a declaration to be framed upon the close of the whole treaty of the respective rights of Great Britain and America.

These four expedients, in the order in which they are placed, will afford you the means of avoiding the difficulties of settling this important and delicate point. But though we have suggested them in this place, you are always to remember that it will be more advantageous to postpone the discussion of them, or at least the decision upon them, to the second part of the treaty, concerning those terms which may be required from our subjects in America.

If, however, they should propose to fall into any other measures for the purpose of contributing to the public charge, in common with all Our other subjects, or should entertain a prejudice in favour of the mode adopted by their Articles of Confederation lately proposed in Congress, and signed 'Henry Laurens, President', you will so frame your discussions upon that matter as to facilitate the same, in such mode as you shall judge most advisable.

But if you find them peremptorily fixed on coming to no resolution favourable to any proposition of contribution at all, you, or any three of you, have hereby Our royal authority ultimately to declare your acquiescence.

The preservation of their charters is another article upon which Our subjects in America may require some security. It is not to be supposed that they will desire that in no case any alteration shall ever be made in any of their charters, because it is certain that numbers of them wish some charters to be materially altered: but if the example of the repeal of the Act for altering the government of the Massachusetts Bay, and Our royal declaration made, or to be made, in the preliminaries to this treaty, are not sufficient to quiet all their alarms on this head, you may admit, as a stipulation on their part, to be declared by Us and Our two Houses of Parliament, that no bill for the alteration of any of the constitutions of the colonies shall be brought into Parliament, but upon petition from the Assembly of such colony or colonies, as is declared in the preliminaries above referred to.

It is to be presumed, then, that the proposition of restoring our colonies to the same situation in which they stood in the year 1763, may lead to an examination of the several Acts passed since that period, of which they have desired a repeal. . . .

[A list of statutes follows concerning trade, paper currency, quartering of troops and war emergency measures. Various plans are then suggested for dealing with 'the large quantity of paper currency issued since the beginning of these unfortunate disputes'.]

You are also at liberty to concert with the persons with whom you are to treat, the mode in which the expense, not only already incurred, but which is to be incurred for the public service in America, shall be raised from time to time.

But you are not to consent that the charges of the war, incurred by our colonies in America, should, in any manner whatever, be defrayed by Great Britain, though you may concur in any of the above-named propositions, or in any measures which may be proposed, and which should appear reasonable to you, for securing and discharging the same by the said colonies.

The appointment of Governors being left to you, and the recommendation to other situations in your power, if proper persons occur it would be Our royal wish that some of the first and most considerable offices in America should be bestowed on Our American

subjects. Or otherwise, that such Governors and judicial and ministerial officers, the appointment and nomination of whom was received from Us before the troubles broke out, should continue in their respective appointments, but with such variations and regulations, as well in the Civil and Criminal, as in the Courts of Admiralty, as you shall think most conducive to the due administration of justice, and to have the best tendency to give all reasonable content and satisfaction to Our subjects there.

If it appears to you that no pacification can take place except upon a condition that the office of Governor, which has heretofore in most of the provinces made a part of Our royal prerogative, should become elective, even this point may in such case be conceded: but it must always be provided that the election shall be approved and the commission to such Governor or Governors issued under Our authority. And the same instruction may be understood to extend to the appointment of all or any judicial and civil magistrates.

It is also Our will and pleasure, for a further satisfaction to the minds of Our subjects in America, that such offices there as they can show to be burthensome shall be suppressed: and the offices held under Us shall be granted under such restrictions as may secure the performance of the duty.

The advantages that may be offered to Our subjects of America at large, beyond the renewal of the rights they formerly exercised, and as an improvement of their situation, must in some measure depend upon the terms they are willing, on their part, to yield to Great Britain.

If a proper contribution could be obtained, it is obvious that all laws of revenue would then be reduced into a very small compass. The custom-house officers, though appointed by Us, would in truth be officers of the province, to whose treasury the amount of the duties would be carried: and if they desired the appointment, in such case, to be by their Assemblies, there seems to be no objection to give this testimony of a desire on Our part to comply with their wishes.

The Admiralty Courts may be restrained in such manner as will satisfy Our subjects in America, as far as it can be made consistent with a reasonable security, and an impartial administration of justice on the subject matter of such jurisdiction in causes maritime.

An extension of the trade of America would also be an object that might be very fairly put in discussion. The principle of the Act of Navigation, and of the 22nd ch. of the 7th and 8th of King William has been relaxed in favour of many articles of American production, which are allowed to be carried directly to an European market upon condition only of touching at an English port.

It is impossible to foresee the particular demands which may [be] made to you in behalf of particular branches of trade. This only We direct you to observe in general, that no check should be given to any

of them. One caution, however, should be attended to, that of all advantages, that of bounties should be the least favoured.

Upon the subject of commercial regulations, the prevailing principle has always been to secure a monopoly of American commerce.

The fetters of custom-house regulations are but a weak security for this monopoly in practice, and it should seem that the most effectual way to insure its continuance would be to lay upon articles of foreign produce, not imported from Great Britain, the amount of the provincial duties, whether collected for general or local purposes. This is a point to be watched in the course of the treaty: and if there is, on the one hand, a relaxation from ancient restraints, that new stipulation may reasonably be required on the other. The articles agreed upon by you, under the head of regulations of trade, must necessarily pass into an Act of Parliament, and to avoid the revival of any question upon right and authority, a representation from Our colonies may precede the Act.

There are, however, some advantages, unconnected with this subject, which you will have in your power to offer immediately.

The regulation of the judicatures in America is a point in which it would be very easy to improve the condition of Our subjects there, but upon which it is very difficult to give pointed instructions. They have objected to the judges holding commissions during good behaviour. If they are disposed to think differently, and also to give an independent provision to the judges, there could be no objection on Our part to giving them commissions, if they are to receive their commissions from Us, during good behaviour.

You will likewise acquiesce in any just and proper regulations that may be proposed relative to the Courts of Justice, and the mode of practice there, and to such regulations as you may think proper, to render appeals to us more speedy and less expensive.

If it should be proposed that a general Assembly, in nature of the present Congress, or similar thereto, consisting of delegates from the said several colonies, should be constituted or established by authority, to meet in Congress for the better management of the general concerns and interests of the said colonies, you are not to decline entering into the consideration of the said proposal, and to see whether any such plan can be so settled and digested as to contribute to the welfare of our colonies, and preserve and secure their connection with Great Britain. But the greatest attention should be given that, in ascertaining the powers and functions of that Assembly, the sovereignty of the mother country should not be infringed, nor any powers given or ascribed to it that should be capable of being construed into an impeachment of the sovereign rights of His Majesty, and the constitutional control of this country. And if it should appear to you that such a plan may be formed as shall be likely to serve the good purpose of establishing a lasting confidence and reconciliation, yet, after it shall

be so digested and matured, as it will make so great an alteration in the constitution of America, it may be more advisable, if circumstances will admit, to refer the approbation of it to the Legislature of Great Britain, previous to inserting it as a concluded article of the treaty.

If it should be desired that Our subjects in America should have any share of representation in Our House of Commons, such a proposal may be admitted by you, so far as to refer the same to the consideration of Our two Houses of Parliament: and it will be proper that in stating such a proposition, the mode of representation, the number of the representatives, which ought to be very small, and the considerations offered on their part, in return for so great a distinction and benefit, should be precisely and distinctly stated.

You may also offer to Our American subjects a release from Us of all arrears of quit-rents whatever.

And it is Our royal intention that a full pardon, without any exception, should be offered to all that have been in rebellion. An amnesty, and also an indemnity, shall follow such pardon.

And finally, as the trial in England of treasons committed abroad, though unquestionably legal, has been a matter of complaint to our subjects in America, you may treat of, and agree upon any law to be proposed to Us and Our two Houses of Parliament, similar to that which has been occasionally made in England, in times of rebellion, authorizing a trial out of the county, where the treason hath been committed, but in some place adjoining, where justice may conveniently be administered.

In return for all you give, you are, if possible, to attain a reasonable contribution and compensation directly from the several provinces.

A duty to be imposed on all articles not British, or sent from Britain.

A duty on the foreign trade of America paid in Europe, if it shall be further extended.

These are all the demands that immediately affect the revenue of Great Britain: but the honour and security of Great Britain require other terms, equally important. . . .

[Violations of private property are to be made good, commercial debts are to be honoured, and the interests of Anglican clergy are to be safeguarded.]

It should also be agreed, amongst those points which they should concede to Us, that no vessels of war should be kept up but such as shall be employed and commissioned by Us.

All forts and fortifications should be delivered up to Us, and the command of them should be in such Governors, or officers, as We shall, from time to time, appoint, garrisoned, however, by American troops.

No coin should be struck, or coinage established, but by Our orders, and in Our name.

All prisoners of war, and persons in custody, should be discharged.

As to the Declaration of Independence dated the 4th of July 1776, and all votes, resolutions, and orders passed since the rupture began, it is not necessary to insist on a formal revocation of them, as such declaration, votes, orders and resolutions, not being legal Acts, will be in effect rescinded by the conclusion of the treaty.

Supposing upon the whole that the negociation should fall chiefly into the hands of the Congress, it will still be highly expedient, before the close of the negociation, that the several Assemblies should be called.

The proper time to propose this would be when the material concessions on the part of Great Britain are settled, and when it becomes necessary to fix terms on the part of America. To give sanction and effect to these terms, each Legislature should empower persons to engage on behalf of the colonies, as it is proposed to do by the Articles of Confederation before mentioned.

As it is impossible to foresee and enumerate all the matters which may arise during such an inquiry, you are not to consider these instructions as precluding you from entering into the examination and decision of any matters not contained herein, nor of any additional circumstances relative to such things as are the subject matter of these instructions. But you are at liberty to proceed upon every matter within the compass of your commission, and to give all possible satisfaction to the minds of Our subjects in America, consistent with that degree of connection which is essentially necessary for preserving the relation between Us and Our subjects there.

Lastly. If there should be a reasonable prospect of bringing the treaty to a happy conclusion, you are not to lose so desirable an end, by breaking off the negociation on the adverse party absolutely insisting on some point which you are hereby directed, or which, from your own judgment and discretion, you should be disposed not to give up or yield to, provided the same be short of open and avowed independence (except such independence as relates only to the purpose of treaty).

But in such case you will suspend coming to any final resolution till you shall have received Our further orders thereupon.

And you are upon all occasions to send unto Us, by one of Our principal Secretaries of State, a particular account of all your proceedings, relative to the great object of these Our instructions, and to such other objects as you may think worthy of Our royal attention.

2

IRISH LEGISLATIVE INDEPENDENCE: THE TWO RESOLUTIONS MOVED BY LORD SHELBURNE IN THE HOUSE OF LORDS, 17 May 1782[1]

1. That it is the opinion of this House, that the Act of the 6th of George I, entitled 'An Act for the better securing the dependency of Ireland upon the Crown of Great Britain', ought to be repealed.

2. That it is the opinion of this House, that it is indispensable to the interest and happiness of both kingdoms, that the connection between them should be established by mutual consent, upon a solid and permanent footing, and that an humble Address be presented to His Majesty, that His Majesty will be graciously pleased to take such measures as His Majesty in His royal wisdom shall think most conducive to that important end.

3

IRELAND: LORD SHELBURNE TO THE DUKE OF PORTLAND, 18 May 1782[2]

[Shelburne encloses copies of the two Resolutions of the British Parliament concerning the proposed adjustment in the constitutional relations between Great Britain and Ireland (No. 2 above) and explains the implications. The total repeal of the statute, 6 George I, cap. 5, will have the immediate effect of removing what Ireland declares through its Parliament to be the chief cause of its discontent, and if the question of Writs of Error being received by the Court of King's Bench in England shall still remain a ground for uneasiness to the Irish, Portland is authorized to state that in such case that also will be included in the proposed repeal. The King will be graciously pleased to assent to the modification of Poyning's Law so far as it related to 'the practice of suppressing Bills in the Council of Ireland, or of altering them anywhere', and the same principle will apply to the perpetual Mutiny Bill, 'the duration of which He will consent to abridge to a term of two years'.]

... We have on these several points endeavoured to meet the wishes of the Irish Nation with as much expedition as a subject of such magnitude thus necessarily submitted to the attention of Parliament would admit of in a most unequivocal declaration, relying upon the representations and assurances which Your Grace has given us, and

[1] Printed in *Parl. Hist.*, vol. xxiii, 37–38. On the same day similar resolutions were moved by Fox in the Commons (ibid. 16–35). See also Fox and Pitt in the debate of 1785 (ibid., vol. xxv, 965–82) on the commercial resolutions.

[2] H.O. 100/1, pp. 207–9. *Lord Shelburne*, who had called attention to Irish distress and unrest in 1779 and 1780, was now Secretary of State for the Home Department in the new Rockingham administration. William Cavendish Bentinck, third *Duke of Portland*, was appointed Lord-Lieutenant of Ireland by Rockingham in April 1782. A year later, when Shelburne retired, Portland became first minister. During his period of office as Home Secretary (1794–1801) he was again in charge of Irish affairs.

upon the honour and gratitude of the people of Ireland for a suitable return. We must presume with a reasonable hope, that they will not be the less ready to convince us of their good faith in these respects for its not having been required of them in the form of a condition by the Resolutions of either House of Parliament. As Great Britain by these concessions has so clearly manifested a desire to satisfy the expectations of Ireland upon all constitutional points, and to prevent every possible source of future jealousy and discontent, she does not doubt of receiving an unequivocal testimony of a corresponding disposition on the part of Ireland. . . .

[Britain relies on the Irish Parliament to implement the concluding paragraph of its Address where it is stated that in sharing the freedom of England, the Irish are determined 'to share her fate likewise, standing and falling with the British Nation'.]

But as it is extremely to be desired that the most explicit explanation may *now* be had for the more sure prevention of *future* misunderstandings, I must express an earnest hope that by direct acknowledgement on the part of the Irish Parliament there may be ascertained the proper control and prerogative of the Crown, which requires to be strengthened in this case by retaining the *right of advice* in both Privy Councils, and the clearly acknowledged power of suppression *by the King* in the English Council, so as that there may not remain any inconvenience unnoticed or unprovided for which may leave an opening to future complaints. . . .

4

IRELAND: LORD SHELBURNE TO THE DUKE OF PORTLAND, 18 May 1782[1]

[Shelburne supplements his official dispatch (pp. 175–6 above) with this secret and confidential communication in order to elucidate a number of important questions arising from Portland's dispatches of 24th and 27th April. He is perturbed that Portland has apparently done nothing to counter the impression prevailing in Ireland that *all* the Irish demands would be conceded. It was not, he points out, until after the official declarations of British policy had been made that these further demands had been specified in Addresses from the Lords and Commons of Ireland. Neither the King's Ministers nor the Parliament of Great Britain could be committed to giving their assent to such demands before they were known and had been considered. A passage in Portland's dispatch of 24th April had confirmed Shelburne in his view that Ireland would be content with internal self-government and that the regulation of judicial and external commercial matters 'might become matter of Treaty, and the repeal of 6th Geo: Ist not insisted on in such a manner as to occasion any great difficulty in ascertaining the mode of giving redress'. At the same time, the Resolutions which had been passed by the British Parliament were 'certainly tantamount to an actual repeal': Ireland was being given the reality and not merely the semblance of self-government.

Shelburne agrees that the only security against fresh demands was to gain the confidence of the Irish Parliament and to enable that Parliament to win the confidence in the country 'which will be necessary to obtain the substitutions necessary

[1] H.O. 100/1, pp. 223–7. *Secret and confidential.*

to preserve the remaining connection between Great Britain and Ireland'. Now was the moment, when joy and gratitude were paramount, to secure a firm compact, and Portland is urged to obtain it 'in the most precise and unambiguous terms'.]

. . . . Upon the subject of a superintending power to be reserved to this country, for all purposes of common concern, whether in matters of State or general commerce, I should conceive that an acknowledgment of this power can never be so well obtained as when the impression of the generosity both of the King and Parliament here is yet warm: and it will be Your Grace's business to avail yourself of the moment with all the address possible to engage them in the most explicit and precise acknowledgment of the right of Great Britain in this respect, and to settle with them 'precise limits to their own independence'.

Upon the subject of trade, which next occurs for consideration in the general system of new arrangement, it is scarcely possible to lay down any certain plan or advice without a more intimate knowledge of the views of Ireland thereupon. . . . It appears to me a probable consequence that if they feel the advantages already obtained to be delusive, they might consider and look forward to a Treaty as the medium by which they should endeavour to gain larger indulgences. It were much to be wished that some general principle or principles could be immediately adopted by both countries; such as, That whatever future provisions are judged necessary for this country be extended to that, and the same benefit secured to both under the same restrictions.

[With regard to the Mutiny Bill Shelburne could not think it unreasonable to hope that the well-intentioned part of the Irish nation would agree to a modification of the militia authority, 'on constitutional principles which shall restore the sword to that part of the Constitution where experience proves it can alone be safely lodged'. But he was very sensible of the delicacy of that subject under existing circumstances, and he must leave it to Portland's judgment to feel his ground in regard both to the Armed Association and to the share the Irish might be disposed to contribute to the general support of the Empire.]

Your Grace will naturally feel the degree of responsibility you stand in to His Majesty and to the whole nation, not only for the future peace of Ireland, but for its not disappointing the just expectation of its becoming again a useful and co-operating part of the British Empire. I can only assure Your Grace that in the further prosecution of this business, the utmost good faith shall be preserved; and the Bill to be offered to Parliament shall be expressed in the most distinct terms possible to carry into execution the concession in the full extent I have the honour to convey. . . .

5

IRELAND: WILLIAM PITT TO THE DUKE OF RUTLAND, 7 October 1784[1]

Putney Heath.

. . . I feel, however, notwithstanding the difficulty of deciding upon many of the delicate considerations which present themselves in the arduous business you have in your hands, that a plan must be concerted on all the points, and as far as possible adapted to all the contingencies that may happen, before the meeting of Parliament. The commercial points of discussion, though numerous and comprehensive, may certainly be ascertained and reduced to clear principles by diligent investigation. . . .

I own to you the line to which my mind at present inclines (open to whatever new observations or arguments may be suggested to me) is, *to give Ireland an almost unlimited communication of commercial advantages*, if we can receive in return some security that *her strength and riches will be our benefit, and that she will contribute from time to time in their increasing proportions to the common exigencies of the empire*. And having, by holding out this, removed, I trust, every temptation to Ireland to consider her interest as separate from England, to be ready, while we discountenance *wild and unconstitutional attempts, which strike at the root of all authority*, to give real efficacy and popularity to Government, by acceding (if such a line can be found) to a *prudent and temperate reform of Parliament*, which may guard against or gradually cure *real* defects and mischiefs, may show a sufficient regard to the interests and even prejudices of individuals who are concerned, and may unite the Protestant interest in *excluding the Catholics from any share in the representation* or the government of the country.

The propriety and practicability of this, as of everything else, must depend upon the actual temper and disposition of men's minds, and upon a full view of all relative circumstances, more, perhaps, than upon the abstract consideration of the thing itself. As such I do not state my opinion as finally formed, but I am anxious to state to you the present inclination of my mind, and to learn yours in return. You, who have the great task of executing any plan, are in a situation to suggest innumerable observations which my view of the subject cannot furnish me with. The sooner, upon full communication, we can ultimately decide, and set on foot all the operations with regard to the instruments and the detail by which any plan of one sort or other is to be effected, the better. . . .

[1] *Pitt–Rutland Correspondence*, Edin., &c., 1890, pp. 42–44. *William Pitt*, who had been Chancellor of the Exchequer in Shelburne's shortlived administration and had refused that office under the Portland–Fox–North coalition, became

6

IRELAND: WILLIAM PITT TO THE DUKE OF RUTLAND, 6 January 1785[1]

. . . The general tenour of our propositions not only gives a full equality to Ireland, but extends that principle to many points where it would be easy to have urged just exceptions, and in many other points possibly turns the scale in her favour, at a risk, perhaps a remote one, of considerable local disadvantages to many great interests of this country. I do not say that in practice I apprehend the effect on our trade and manufactures will be such as it will perhaps be industriously represented: but I am persuaded (whatever may be the event) that by the additions now proposed to former concessions we open to Ireland the chance of a competition with ourselves, on terms of more than equality, and we give her advantages which make it impossible she should ever have anything to fear from the jealousy or restrictive policy of this country in future. Such an arrangement is defensible only on the idea of relinquishing local prejudices and partial advantages, in order to consult uniformly and without distinction the general benefit of the empire. This cannot be done but by making England and Ireland *one country* in effect, though for local concerns under distinct Legislatures: *one* in the communication of advantages, and of course in the participation of burdens. If their *unity* is broken, or rendered absolutely *precarious*, in either of these points, the system is defective, and there is an end of the whole. The two capital points are, the construction of the Navigation Act, and the system of duties on the importation into either country of the manufactures of the other. With regard to the Navigation Act, it has been claimed by the advocates for Ireland as a matter of justice, on the ground that the same Act of Parliament must bear the same construction in its operation on Ireland as on Great Britain. Even on the narrow ground of *mere construction*, it may well be argued as at *least doubtful* whether the provisos in the Act of 14th and 15th C.II (by which it was in effect adopted by authority of the Irish Parliament) do not plainly do away that restriction on imports of colony produce from England to Ireland which is not done away by any proviso or otherwise with regard to the same importation from Ireland into England. On such a supposition it might be very consistent that the Act of Navigation should be enforced here (as it was by subsequent Acts of Parliament) in its original strictness, and in Ireland with those exceptions in favour of colony produce imported from hence which the provisos I allude to seem to have admitted: and the practice of more

prime minister in December 1783. Charles Manners, fourth *Duke of Rutland*, was appointed Lord-Lieutenant of Ireland by Pitt in February 1782.

[1] *Pitt–Rutland Correspondence*, pp. 57–64 and 71–73.

than a hundred years has been conformable to this distinction. But this is on the mere *point of* construction. The question is, not merely what has been or ought to be the construction of the existing law, but what is really fair in the relative situation of the two countries. Here, I think, it is universally allowed that, however just the claim of Ireland is not to have her own trade *fettered and restricted*, she can have no claim to any share beyond what we please to give her in the trade *of our colonies*. They belong (unless by favour or by compact we make it otherwise) *exclusively to this country*. The suffering Ireland to send anything to those colonies, to bring anything *directly* from thence, is itself *a favour*, and is a deviation, too, for the sake of favour to Ireland, from the general and almost uniform policy of all nations with regard to the trade of their colonies. But the present claim of Ireland has gone further: it is not merely to carry produce thither, or to bring it from thence, but it is to supply us, *through Ireland*, with the produce of *our own colonies*, in prejudice, as far as it goes, of the direct trade between those colonies and this country. Can it be said that Ireland has any right to have the liberty of thus *carrying for us*, because we have the liberty of carrying *for them*, unless the colonies with whom the trade subsists are as much *their* colonies as they are *ours*? It may be true that the favour granted by former concessions in this respect is in some measure compensated by their securing in favour of our colonies a monopoly of their consumption: though it may well be doubted whether on any possible supposition they could be supplied from the colonies of any other country on terms of similar indulgence. But the liberty to be now given stands on a separate ground, and is a *mere and absolute favour*, if ever there was anything that could be called so. It is a sacrifice, too, which cannot fail to be magnified here, even beyond its true value, as a departure from the principles of the Act of Navigation, which has been so long idolized in this country. But what I principally state this for is to prove the *liberal and conciliating spirit* which induces us to agree to the proposal. I do not wish to exaggerate its probable effects. I do not expect that in practice it will materially interfere with the trade of this country: but it is unquestionably true that, even though we should not immediately lose by it, yet Ireland will be considerably benefitted, by opening so near a market, which will encourage her merchants to a freer speculation, and enable them to avail themselves more than they have hitherto done of the advantages they are already possessed of. Some persons here may perhaps even apprehend that the liberty of supplying our market may *gradually* enable them to lay in a stock for the supply of other markets also, which perhaps they could not do otherwise; and if that should be the effect, not only they will be gainers, but we shall be losers in the same proportion. On the whole, however, I am fully reconciled to the measure, because even supposing it not to produce these effects it must be remembered that it is a liberty which Ireland has strongly

solicited, and on which she *appears to set a high value*. As such, it is the strongest proof of cordiality to grant it, in spite of prevailing and perhaps formidable prejudices; and in truth it establishes in favour of Ireland so intimate a connection and so equal a *participation* with this country, even in those points where we have the fullest right to exclusive advantage, that it gives them an interest in the protection of our colonies and the support of our trade equal in proportion to our own. I come now to the system of duties between the two countries; and here, too, I think Ireland has not less reason to be satisfied and to be grateful. By lowering our duties to the standard of Ireland we put her in possession of absolute equality, on the face of the arrangement; but I think in truth we put her in possession of something more. If, however, it were bare equality, we are departing, in order to effect it, from the policy of prohibiting duties so long established in this country. In doing so we are perhaps to encounter the prejudices of our manufacturing [interests] in every corner of the kingdom. We are admitting to this competition a country whose labour is cheap, and whose resources are unexhausted; ourselves burdened with accumulated taxes, which are felt in the price of every necessary of life, and of course enter into the cost of every article of manufacture. It is indeed stated on the other hand, that Ireland has neither the skill, the industry, nor the capital of this country; but it is difficult to assign any good reason why she should not gradually, with such strong encouragement, imitate and rival us in both the former, and in both more rapidly from time as she grows possessed of a larger capital, which, with all the temptations for it, may perhaps to some degree be transferred to her from hence, but which will at all events be increased if her commerce receives any extension, and will as it increases necessarily extend that commerce still farther. But there is another important consideration which makes the system of duties more favourable to Ireland than she could expect on the ground of perfect equality. It is this: although the duties taken separately on the importation of each article will be the same in the two countries, it is to be remembered that there are some articles which may pass from one to the other perfectly free; consequently, if the articles which in the actual state of the trade we are able to send to Ireland are those which pay *some* duty, if the articles which she principally sends to us are articles which *pay no duty*, can anything be plainer than that, although upon each article taken separately there is an appearance of impartiality and equality, the result of the whole is manifestly to a great degree *more favourable to Ireland than to this country*? . . .

The other topic is, that it is impolitic and odious that this arrangement should have the appearance of *a bargain*, and such an idea will render it unpopular with the public. If a permanent system is to be settled by the authority of two distinct Legislatures, I do not know what there is more odious in a bargain between them than in a treaty

between two separate Crowns. If the bargain is unfair, if the terms of it are not for mutual benefit, it is not calculated for the situation of two countries connected as Great Britain and Ireland ought to be. But it is of the essence of such a settlement (whatever name is to be given to it) that both *the advantage* and *the obligation* should be reciprocal; one cannot be so without the other. This reciprocity, whether it is or is not to be called a bargain, is an inherent and necessary part of the new system to be established between the two countries. In the relation of Great Britain [with Ireland] there can subsist but two possible principles of connection. The one, that which is exploded, of total subordination in Ireland, and of restrictions on her commerce for the benefit of this country, which was by this means enabled to bear the whole burden of the empire; the other is, what is now proposed to be confirmed and completed, that of an equal participation of all commercial advantages, and some proportion of the charge of protecting the general interest. If Ireland is at all connected with this country, and to remain a member of the empire, she must make her option between these two principles, and she has wisely and justly made it for the latter. But if she does think this system for her advantage as well as ours, and if she sets any value either on the confirmation and security of what has been given her, or on the possession of what is now within her reach, she can attain neither without performing on her part what both reason and justice entitle us to expect. The only remaining consideration is, for what service this contribution shall be granted, and in what manner it shall be applied. This seems a question of little difficulty. The great advantage that Ireland will derive is from the equal participation of our trade, and of the benefits derived from our colonies. Nothing, therefore, is so natural, as that she should contribute to the support of the navy, on which the protection of both depends.[1] For the rest, it seems only necessary to provide some proper mode of ascertaining to the Parliament of Ireland that the surplus is annually paid over, to be applied together with other monies voted here for naval services, and to be accounted for, together with them, to the Parliament of this country. There can be but *one navy* for the empire at large, and it must be administered by the executive power in this country. The particulars of the administration of it cannot be under the control of anything but the Parliament of this country. This principle, on the fullest consideration, seems one which must he held sacred. Nothing else can also prevent the supreme executive power, and with it the force of the empire, being distracted into different channels, and its energy and effect being consequently lost. . . .

[1] For a discussion of this concept of commercial reciprocity combined with an Irish contribution to general Imperial defence—a concept which failed to gain acceptance, see Vincent Harlow, *The Founding of the Second British Empire, 1763–93*, Lond. 1952, vol. i, ch. xi.

7

PAPER ON THE GOVERNMENT OF IRELAND, 1791–2[1]

. . . The want of apparent responsibility in administration will also naturally occasion discontent. The responsibility of the servants of the State is the acknowledged principle of the British Government, nor can it be expected that the Irish, who are repeatedly told that, in point of constitutional liberty and security, they are now upon the same footing as the people of England, will be deprived of so important a right as that of calling Ministers to account, when they have betrayed their public duties. To convince them that every member of the domestic administration of their country is as truly and legally responsible as persons in similar situations in England, is an object of such material consequence, that it should always be kept in sight. The personal responsibility of Ministers is one of the great securities of the monarchy in England; and the personal responsibility of Ministers in Ireland is the only ground upon which British supremacy can be firmly built. The idea that the responsibility of the Government is in the Lord Lieutenant is false and unconstitutional. He represents the executive magistracy of England, the sovereign of Ireland, between whom and the people no difference can be properly supposed to arise. He is not sheltered by the accidental circumstance of his having no property in the kingdom he governs, nor a residence but merely temporary; but by the principles of the British Constitution, which, for the wisest ends, has made responsible not the sovereign who commands, but the Minister who executes. The King's pleasure cannot be pleaded in justification by his servants. They are bound, at their peril, to examine before they act in consequence whether that pleasure is in conformity with the law, and the essential interest of the nation. The Lord Lieutenant, who represents the King, is equally freed from responsibility. Those in official departments under him are properly answerable for the measures which, without them, cannot be carried into execution. But directly in contradiction to these principles has been the system pursued. Everything has been done to take away all appearance of responsibility in the Irish Administration, and to throw everything upon the Lord Lieutenant and his Secretary. To such an absurd extreme has the jealousy of a revival of the old oligarchical tyranny been carried by Government, that all patronage has been taken from every Department, and the Lord Lieutenant is to name, and be personally solicited for, the appointment

[1] Printed in *Dropmore Papers* (H.M.C. 1899), vol. iii, pp. 552–61. Submitted to Lord Grenville and probably written by Richard Wellesley, Earl of Mornington, who had been a member of the Irish House of Peers and was a great admirer of Henry Grattan, the Irish 'patriot' and leader in the struggle for her legislative independence.

to the very lowest official situations, as if it could be expected that tide-waiters, searchers and coast officers should conceive that they had contracted an obligation to British Government, and not to those through whose mediation they had obtained its favours. As if every nomination did not make many refusals necessary; as if such patronage was not merely nominal, Government promoting not its own dependants and adherents, but those of other men, and thus incurring all the odium of denials, without any share of the praise of bestowing. In pursuance of the same system, no man in Ireland is called into Cabinet consultations in virtue of his office. The Lord Lieutenant applies, at his discretion, to any person he thinks fit; sometimes it has been the Chancellor, sometimes the Speaker of the House of Commons, sometimes the Prime Sergeant, or Attorney General, at others men in no official situations, with whom the general plan of Government has been concerted, and every measure of importance previously determined and arranged. Then follows a separate communication, consultation there is none, to each of the leading members of both Houses, whether in or out of office, upon whose support the Government principally rely; and, afterwards, a more general meeting at which the address or the motion, intended to be proposed, is read. This also is mere matter of ceremony, and I have known such meetings attended by men of name and figure, who have gone from the Castle to the House to lead the opposition. Men cannot be properly responsible for measures which they have no share in advising; and, as there is no mark by which the people can distinguish the real advisers of Government, the odium of every measure falls upon the Lord Lieutenant and his Secretary; and with the greater violence as the people are conscious that, whatever may be the demerits of those officers, and though they should in fact intend and attempt all that ruin to the liberty and trade of Ireland which is constantly imputed to them, they are out of the reach of punishment. Yet nothing is more certainly true than that the Irish part of the administration is the spring of all the measures pursued by Government. The suggestions they make, and the information they give, are the grounds of every resolution adopted by the Lord Lieutenant and the British Cabinet; so that the sum of what has been obtained by breaking the faction in Lord Townshend's time has been no more than this. That formerly men in place in Ireland had power with the risk and responsibility which ought always to be annexed to it; the power still remains with them, and the Lord Lieutenant and his Secretary, that is, the British Government whom they represent, have all the risk and responsibility.

It remains to say a few words more concerning the nature and extent of the change which has taken place in the relative situation of the two countries. My ideas concerning it have been already explained in some degree, as far at least as relates to the mode of administration.

The boundaries of the political powers of both may be thus expressed. The whole domestic administration, legislation, and regulation of commerce, has been restored by Great Britain to the Parliament and people of Ireland. An absolute negative upon all Acts, legislative and administrative, together with the succession to the Crown, and the unlimited power of peace, war and negotiation, has been reserved. As the Crown of Ireland follows no rule of hereditary succession, but is annexed to, and appendant on the Crown of Great Britain, the limitation of which belongs to the British Parliament, the control of this country over the executive of Ireland is complete; and, though the Privy Council of the former has no longer any power to reject or to alter Bills, yet, as the Royal assent must be signified under the Great Seal of England, the control, in this respect, is also complete; and no law can be passed, affecting the interest of Great Britain, for which the Ministers of this country will not be answerable to Parliament.

Whatever the public force of Ireland may consist of, it is completely at the disposal of Great Britain, and that without expense. The army is supplied from the revenue of Ireland, whose ports, shipping, and seamen are as much in the disposal of this country as its own. To augment, therefore, the public force of Ireland, either by augmenting the army, or creating a navy, or building docks, or increasing the quantity of shipping by extending trade, wherever it may be done without prejudice to Great Britain, must be the objects of the policy of this country. The whole of their domestic administration we have surrendered to Ireland, with reserve only of that negative power which may prevent any innovations tending to shake the supremacy of this country. The patronage of English Government in Ireland is reduced to two Vice-Treasurers' places, and a few inconsiderable pensions. The remainder is engrossed by the Irish Administration. What concern, therefore, have we with it? If one party there cannot defend their posts without farther assistance, and fresh means of corruption, let them resign to those who can. It can be of no consequence to this country what Irish names adorn the pages of Watson's Almanack, and of very little to any party here. For, at this moment, when clamours are so loud, and the Whig Club holds out an apparent distinction of parties beyond what has yet been known in Ireland, what changes would take place there, if there was to be any revolution in the administration here? . . .

According to my ideas, therefore, the grievances of the people of Ireland are to be referred entirely to their domestic administration, and to be corrected by their own Parliament . . . .

A reform of Parliament I must admit to be measure of great delicacy and danger. I think, however, that it might have very beneficial consequences in Ireland. The more elections are made to depend upon that influence which flows from landed property, the greater will be the steadiness and security of Government. Whatever jealousy subsists

between the two countries springs from persons in trade and the factions of Ireland; either from their clamours and unreasonable monopolizing spirit, or from adventurers who purchase seats with no view but, by perplexing and teasing Government, to force themselves into office. Both these descriptions of men would be diminished, as to consequence and numbers in Parliament, by calling in a greater proportion of landed influence. But the preponderance of that influence might be carried to excess, and the nature of our Government requires that all the estates of the people of the realm should be represented. If the close boroughs were to be abolished, or the freeholders in the neighbouring districts be associated to the ancient voters, and, at the same time, the number of county representatives be increased, (a scheme which had been proposed,) in a short space of time, the representation and the right of election would be engrossed by 100, or 150, families. The equipoise might be restored by taking one member from each depopulated or close borough, and making an equal addition to the representation of the counties or large towns; or, leaving all the old corporations untouched, an addition might be made to the county members, and new rights of electing be created in favour of new bodies of men. . . . But as the contagion of Parliamentary reform might be dreaded for England, it remains to be considered whether, even in the present state of the Irish Parliament, means may not be found to collect, and to influence the public opinion. I have already touched upon some. I think the House of Lords might be made use of to advantage. Though some improper creations have been made, it consists of the principal landed men in Ireland. The weight of property in it very far exceeds that in the House of Commons. I went over the list of those who are constantly resident, or who reside occasionally and constantly take part in the politics of the country, and I computed the annual landed incomes of 103 of them as amounting to upwards of 700,000*l.* When, in addition to this, is considered the property of the inferior branches of their families, their connections and dependants, it is clear their weight in the country must be very great. And, if they were brought a little more forward to public notice, they might be made a most powerful engine of Government; and, if from the vicious system of representation, a faction should prevail for a time in the House of Commons, might be interposed, with safety and effect, as a barrier against their attempts. This is a weapon certainly not to be trusted in rash and common hands, but there will always be a fund of prudence in the House of Lords itself to temper the use of it. I think it one of the best resources which Government has in critical conjunctures, because the exertion of English influence is there least visible, and will, consequently, be attended with the least odium. It is worth remarking that the Opposition, which is now considered as so formidable in the House of Commons, cannot muster ten votes in the Lords. Nothing, therefore, can more contribute to lower the tone

of the old leaders of parties than raising the importance of the Lords, where they are insignificant. Exclusive of the preponderance which the attachment of the Bishops must give to Government, many causes will constantly operate in their favour with that Assembly. It is to be hoped that honours, I mean particularly higher ranks in the peerage, will be distributed with a more sparing hand in future; though I rely much more upon the general leaning of the body of the peerage, and the strong interest by which the proprietors of land are bound to the support of Government, than upon any means of gratifying individuals. Though the House of Commons does not contain nearly the same proportion of real weight and influence as the Lords, yet it has some considerable share of both; and it is to be presumed that, as its lustre and reputation has been increased, more gentlemen of fortune will be solicitous to obtain seats. This will gradually operate to the exclusion of those noisy adventurers who have been the source of so much trouble and mischief, and will give a firmer foundation to Government. With a majority in both Houses, but a very great preponderance in the Lords, and with those holds upon the great bodies of trade which I think may be obtained, and which I believe, indeed, actually exist to a considerable extent, there could be no room for doubt or apprehension as to the inclinations of the people.

I come now to explain, more particularly, the mode of administration which appears to me best calculated to prevent any mischief from growing in Ireland, for, as to immediate danger, I am persuaded there is none. For this purpose some seven or eight offices should be fixed upon to be filled by persons of high rank and natural consequence, and by those upon whose abilities and experience Government must rely to transact the public business both in Parliament and in office. And these men should, in virtue of their offices, be called into council, so that the share they have in those measures which always depend, and must depend, upon their suggestion and advice, may appear more publicly. An effectual barrier between the people and the superior Government cannot be formed, unless a degree of lustre and power be annexed to these offices. They must be such as to appear considerable in the estimation of the multitude, and to be capable of satisfying the ambition of men who have a lead in Opposition. Ireland is already possessed of several offices of high rank and considerable emolument. All that is wanting is to give some business to them, and an ostensible [i.e. evident] share in the government. There is the Chancellorship of the Exchequer, the Vice-Treasurership, the Secretary of State. These are all sinecures, and the latter is granted for life. It ought to be redeemed, and I would add to these a Privy Seal, through whose office the grants of pensions might pass. The Treasury should be put in commission to the Vice-Treasurer, the Chancellor of the Exchequer, and the Deputy Vice-Treasurer. The only additional expense would be the salary of the Privy Seal. . . .

The Lord Lieutenant and Secretary ought not, in my opinion, to form the efficient administration in Ireland, but to superintend and control it, and be the medium of communication, not between a party in office exclusively, but between the people of Ireland and the Ministry of Great Britain. A competent share of the inferior patronage should be distributed to each of the principal offices. The rest would continue with the Lord Lieutenant. The grant of honours, in particular, should, I think, be entirely reserved. Too many Bishops have been made of late upon Irish patronage; too many Peers merely to gain a temporary support in the House of Commons. If my estimate is not erroneous, the House of Lords should be a principal bulwark of English authority. The Bishops, therefore, ought, if not Englishmen, to belong to no Irish party. Far from recommending the absolute exclusion of Irishmen, there is, I think, an obvious policy in selecting, from time to time, men of that nation, eminent for learning and piety. But it should be a rule, not to be dispensed with, never to give a seat upon the Bench to Irish political interest; and, upon the same grounds, I think Government ought to be very careful neither to increase too much the numbers of the Peerage, nor to create men who, from their properties, birth and connections, have not a considerable influence in the country, independent of any borough. But, though I would have the Lord Lieutenant the constant Inspector of the Administration of Ireland, and the immediate channel of communication between the people of that country and the Government of this, Ireland is of too much consequence, as a member of the Empire, to be trusted to the real and effectual control of any man, or body of men, but the Cabinet of England: which, taking into its view all the interests and relations of every part of the King's dominions, may direct and confine the force and resources of the whole to one common end. The Lord Lieutenant appears to me to be too far removed, and for too long a time, to admit of his being sufficiently associated in the counsels of this country [England], and too much pressed and perplexed by being engaged in the domestic cabals of Ireland, not to lay aside sometimes the consideration of the general interest, in order to be relieved from a present embarrassment. I am one of those who doubt of the good policy of confining the Lord Lieutenant to residence so strictly as it has been done of late. . . . The Secretary of State for the Home Department is, I know, properly the Minister for Ireland. But there are few either there or in Great Britain who are aware of it. I cannot pretend to say how far such an extensive and active application to Irish affairs as I have been recommending would be compatible with the other duties of the office; but I am convinced it is necessary, and also that great advantages would follow from Irishmen of rank finding ready access to a Minister when they come to this country. Certain civilities of routine, such, for example, as an invitation to dinner, without any distinction of parties, just as the Lord Lieutenant invites

every man in his turn, would, I am persuaded from what I have seen and heard, have great effect. All this might be done without in the least derogating from the confidence and preference justly due to men in office; at the same time that it would be, in some degree, a check upon them, and countenance the idea that the Government here takes no concern in the mere domestic affairs of that country, but, guarding only against any encroachment on the constitutional powers of the State, and the connection of the kingdoms, observes as to the rest a strict impartiality. Upon the same principle, the surplus of revenue which I propose to distribute in Parliamentary jobs, should be given indifferently to men in the support of Government and in Opposition; not scrambled for, as it often has been, for it would then cease to be a source of influence to Government, but distributed upon a regular plan. The appearance of impartiality would give some popularity, and the expectations of members of Parliament soften the spirit of opposition. Grants of this kind, as well as of peerages, being instruments of general influence, ought to be reserved to the English part of the Government. They ought not, in my opinion, to be trusted absolutely even to the Lord Lieutenant. It is now high time to conclude, which, I think, will best be done by a short recapitulation.

Upon a review of the transactions of former years, it is evident to me that the spirit of discontent and resistance which occasioned the emancipation of the trade and Legislature of Ireland did not arise from the pressure of any commercial restraints, but merely from the distress resulting from continued embargo upon the provision trade. I am farther of opinion that the bulk of the nation are satisfied with what they have obtained; that the people labour under few actual grievances; that these are entirely of a domestic nature, such as have been long submitted to, and may continue without danger to Government, as they have no relation to the connection between the two countries, or the supremacy of the British Crown. That, if there is patience, to let the remains of popular ferment subside, and the trade of the country is left to find its own level, many of the obstacles which have stood in the way of any commercial arrangements between the two kingdoms will moulder away of themselves; others may be gradually, and silently, removed; that, however desirable a reform of Parliament may be upon general principles, it is probable that such means remain of collecting the sense of the nation that, if that measure is thought to be dangerous, no necessity exists for recurring to it; that the unpopularity of English Government is to be attributed solely to their having taken upon themselves the whole responsibility of the domestic administration of Ireland, in which this country has no immediate concern, and of which they have resigned in effect the whole direction to others; that the best way of preventing any mischief that may grow from this state of things is to establish an apparent [i.e. visible] responsibility in Irish Administration, so that their

continuance in office may depend, in a great degree, as is the case in this country, upon the success of the measures they recommend, the most effectual pledge that can be taken for their sincerity. And, lastly, that a constant and unremitting attention should be given in this country to the inspection and control of Irish Government, so far as the rights of this country and the general service of the Empire may be concerned in it; and care taken not to countenance any exclusive system in the management of parties, so that the private interest of no set of men may lead them to make the distinction of an English and Irish party; but that future Parliamentary contests may not be upon questions, involving the rights of both kingdoms, between English Government and Irish Opposition; but merely between Irish men, for the possession of Irish offices, under the favour and protection of Great Britain. And that the operations of the superior Government may, notwithstanding any change in the particular administration of Ireland, be steadily and uniformly directed to one end, namely, the gradual augmentation of the forces and revenue of Ireland, to be finally disposed of by the supreme executive authority of both countries, which is one and the same, and the effectual control of which resides in the Parliament of Great Britain.

8

IRELAND: LORD WESTMORLAND TO WILLIAM PITT, 1 January 1792[1]

Dublin Castle.

. . . The plain sense of the despatch is, that England is indifferent where the power is in Ireland, that she will not be induced to exert herself in support of the Protestant power, and that it is the opinion of the British Ministry that every religious distinction should be done away. I am to impress this sentiment on Parliamentarians here, that it may guide their conduct, to inform them that it is the wish of England that a participation of the franchise should be given; if they are averse, English concession only to be given, plainly having it understood, that it is to be only a prelude to future concession, which concession every man must discover to mean the franchise. . . . I have stated at large my reasons, I shall only shortly tell you my opinion that the intimation of these sentiments would produce a confederacy

[1] *Chatham Papers*: P.R.O./30/8/331: a private and secret dispatch. John Fane, tenth *Earl of Westmorland*, was appointed Lord-Lieutenant of Ireland in January 1790. This angry dispatch was written in response to a request from the British Cabinet that the Lord-Lieutenant should promote legislation admitting Irish Catholics to a limited participation in the franchise. The request had been accompanied by a broad hint that if the Protestant oligarchy refused to consolidate the forces of aristocracy in this way against the menace of Jacobinism, the British Government could not be held responsible for the consequences.

to resist every concession and to defeat your Administration. You know very well the state of the great bodies here is very much calculated for such a confederacy, the Protestant interest would be an excellent bond for such a union. . . . Picture only to yourself the state of your Administration without the confidence of the majority in Parliament;—place Bill, responsibility Bill, sale of Peerages, which would immediately be directed against Lord Buckingham; the Parliament in the hands of the aristocracy, guided by the Portland Party, and made an engine to embarrass you wherever opportunity offered, on the India trade, Mint, or any other occurrence that might vex and perplex. . . .

What could be the sense or use of my declaring that England would not interfere, when upon the face of things she unavoidably must? To my mind I could only give disgust. . . . I can conceive no objection to your authorizing me to say, that England would support the maintenance of the law in Ireland, because, say so or not, you must do it. . . . Consider another consequence of this policy. You raise Mr. Grattan and every determined enemy of English concession and sacrifice the Chancellor [Fitzgibbon], Beresford, Forster, and every attached adherent to British Government. . . . The plain and obvious policy is to keep the country in its present peaceable state by giving a firm countenance to the Protestant existing power, granting to the Catholics such indulgence as may tend to attach them and the temper of the times makes it expedient. . . . I am at a loss to understand why, when you were convinced of the impracticability of carrying the franchise, it was decreed to be tried. In my poor opinion it only would give jealousy to one Party and unfounded expectation to the other. . . .

9

IRELAND: LORD WESTMORLAND TO WILLIAM PITT, 13 November 1792[1]

Dublin Castle.

. . . There cannot be a doubt of the good policy of the Protestants holding out to the Catholics future indulgence, and I will endeavour to impress it as far as I dare, . . . but so rooted and universal is the sentiment that admission of the Roman Catholics to political power must overset the property as well as the political importance of the Protestant possessors, that I fear I shall only create jealousy and not conciliation. . . .

[The upheavals in Europe have hardened the Protestant attitude.]

The Protestants frequently declare they will have a union rather than yield the franchise to the Catholics. The Catholics will cry out for union rather than submit to their present state of subjection.

[1] *Chatham Papers*: PRO/30/8/331.

Is it worth turning in your mind, how the violence of both Parties might be turned on this occasion to the advantage of England? . . .

10

CANADA: LORD THURLOW TO W. W. GRENVILLE, September 1789[1]

. . . It would be rash to hazard an opinion on many of the various points you have opened, without more consideration than the first view of the subject will allow. It is doubtless an important speculation to consider by what circumstances chiefly it was that the disposition of the colonies, now lost, became so alienated, as to be in that readiness for revolt to which accident gave an occasion; which was not foreseen, among other reasons for this, that in truth it was not the immediate or adequate cause. You seem to refer it to the want of more resemblance in their constitution with that of Great Britain. I have been used to think it more referable to the want of connection and dependence in the form of their government upon the mother country. It was formed, I think, too much upon the plan which is supposed to be the establishment of those ancient settlements which never were meant to have a political connection with their metropolis; and were meant only for places of intercourse chiefly commercial; and were left to the effect of that intercourse to preserve the connection. But without referring to ancient history, or even general speculation, it seems clear, that, if political liberty, which is the governing principle of our constitution, be established in a colony, the sovereignty which, following that principle, must be distributed in certain proportions among the people, will also be established there; and the immediate effect of that will be an habitual independent attention to a separate interest. In consequence of protecting and cultivating them, this country made some few laws for them; of which they felt the benefit, more than the burden; because they were not conceived with a view to give an habitual impression of subjection and obedience. And when, at length, they were quoted as precedents for going further, the Colonies were shocked at the inference as an innovation the most remote from their habits of thinking.

On the other hand, the genius of the French Government gave to their colonies a constitution like their own, as practised; by which means the dependence and obedience of the people seems to have

[1] Printed in *Dropmore Papers* (H.M.C. 1892), vol. i, pp. 504–5. *Lord Thurlow* was Lord Chancellor in Pitt's administration, though by 1789 his relations with his Prime Minister were becoming less and less cordial, and he was resentful of the rapid promotion of W. W. Grenville—particularly when the latter in 1790 joined him in the Lords. As Attorney-General Thurlow had in May 1774 ably defended the Quebec Act proposals.

been effectually secured; but the growth and prosperity of the plantation was discouraged and kept down.

Perhaps a mean might have been found; to have given them more civil liberty, without political liberty, which, if I don't mistake, must necessarily include sovereignty, and consequently independence; because the share of the Crown in the sovereignty is certainly not enough by itself to create dependence. But reflections of this sort, even if they are thought just, must yield to actual circumstances; which necessarily draw pretty forcibly towards your conclusions. At the same time, with such ideas as these, while I incline to fall in with all the prejudices which have been already contracted, I still wish to shape the institutions resulting from them so as to preserve the greatest degree of habitual influence possible in the executive branch of government; that being, as I conceive, the only point of contact between this mother and her colonies. One effect of this way of considering the matter is to bring into some doubt your idea of an hereditary aristocracy; which, if placed in hands unequal to it, will only be despised; but if lodged with families of permanent consideration, will grow, as I fear, into an independent interest.

This idea will obviously bear on most of the subjects you have brought forward for discussion. And the application of it to them would perhaps be the best way of trying its real worth, and certainly of trying its expediency. But, for any practical purpose, dissertation in this way would not be so convenient as conversation; in which principles would come more easily to a settlement.

Perhaps it may be worth considering whether the object of providing for a political dependence, or, at least, of looking a great way forward with that view, be worth encountering many difficulties. As a seat of commerce, our present situation in that respect goes a great way to secure it. And to secure it, without such means, may perhaps be a task too hard for political wisdom. Increasing the number of our own subjects, and keeping them out of the hands of others, especially in time of war, is doubtless an important consideration, even in Canada; though not so much so as in those colonies we have lost. And I am far from laying by the object of dependence. I only would decline urging it to an extent which would produce still more considerable inconveniences. . . .

11

CANADA: W. W. GRENVILLE TO LORD THURLOW, 12 September 1789[1]

Wimbledon.

. . . I have to acknowledge the receipt of your Lordship's two letters. With respect to the first, I am sincerely sorry that any expression in

[1] Printed in *Dropmore Papers* (H.M.C. 1892), vol. i, pp. 506–10.

my letter should have conveyed an idea that I wished to receive back the paper which I took the liberty of troubling your Lordship with, before you had found time and leisure fully and sufficiently to consider it. I now return it to your Lordship for that purpose, although I do not flatter myself that it contains anything which will not have suggested itself to you on a first perusal.

I have in one place made a small addition to it, because I felt, on considering your Lordship's letter, that the reasoning which I had used was in part defective. In examining the causes which produced in our American colonies that predisposition to which I perfectly agree in ascribing their revolt, I had discussed the question of colonial government with a view only to the different modifications of a separate and local legislation, without entering into that which is certainly a point of previous consideration, whether such distinct legislation, in any form in which it can be established, is a thing in itself desirable; and whether all power of this sort would not with more advantage (at least to the mother country) be retained in one general and superintending legislation, that of the parent state. To say the truth, I had considered this as a point no longer open to speculation with a view to any measures to be now adopted; as the constitution given, whether by design or accident, to our ancient colonies at their first establishment, and the institutions now existing in our remaining colonies, had supposed the necessity of some distinct and local power of legislation.

This part of the subject is however a material link in the chain of reasoning which I have used, and I think the question stands exactly as your Lordship has described it. That, with a view merely to retaining dependence, a legislation residing in the mother country might for a time be the best of all institutions; but that it has so evident a tendency to check and depress the prosperity of the colony, that it might almost be doubted whether such a dependence would be worth retaining. And one might perhaps add that, in a more advanced state of the colony, this tendency would probably be observed there, and would in that case have the effect of alienating the minds of the colonists from a Government so adverse to their separate interest, and thereby of counteracting the advantages expected from the principle itself.

The other point which your Lordship particularly mentions in this Canada business relates to what was said of an hereditary aristocracy. I am not quite sure whether my paper, as it before stood, sufficiently explained what my idea is on this subject. I thought that by granting some sort of rank and distinction, descendible in lineal succession to the eldest sons of those who were once called to the Council, a body would gradually be formed and kept up, out of whom the Crown would probably select the Councillors, with only a few occasional additions as other families grew to consideration and respect in the

province. The consequence would then be that no person could have a seat in the upper branch of the Legislature, without feeling that sort of interest in the established Government which arises from the possession of hereditary distinction; while, at the same time, the power reserved to the Crown of calling to seats in that House such only of those persons as might individually be judged proper for it, would retain to the British Government a great degree of weight and influence among this description of persons. I feel, however, how difficult it is to discuss these ideas satisfactorily by writing, and I shall have great pleasure in the opportunity of conversing with your Lordship upon them.

With respect to the question relative to the 4½ per cent. duties,[1] I certainly feel that the doubt as to the legality of the grants made out of the revenue, is one on which your Lordship is much more capable of instructing me, than I am of suggesting anything to your Lordship which will not have presented itself to your own mind on considering the subject. At the same time I can have no difficulty in this, or in any case in which your Lordship does me the honour to desire it, to state such considerations as occur to me, and appear to have a reference to the point in question.

If that whole business were now open, and if a system, with respect to the expenses and contributions both of Ireland and of our colonies were now to be established on general principles, there could, I think, be little difficulty in settling that, as we have, on the one hand, a full right to expect that they should defray the whole expense of their civil government by local impositions, that they should also contribute an equitable and adequate proportion of revenue, as well for the common and general objects of government, as for the maintenance of our military and naval force. These principles being once established and acted upon, it would certainly follow as a just and necessary consequence from them that the revenue raised for these purposes, though it might for the sake of convenience and uniformity be paid into the common exchequer, could nevertheless be applied only to those objects to which it would thus be appropriated by a specific and definite grant.

But no general system of this sort has ever been adopted by us; and however desirable it would be as tending to give us a just relief from the weight of our public burthens in Great Britain, a favourable moment for establishing these principles neither presents itself at

[1] In 1663–4 the legislatures of Barbados and the Leeward Islands by enactments granted an export duty of 4½ per cent. to the Crown in perpetuity in consideration of the confirmation of land titles arising out of the extinction of the claims of the original proprietors. Although it was stipulated that the accruing revenue should be used to defray public expenses in the islands concerned, the practice of the Home Government in drawing upon this fund for non-colonial purposes was a continual source of complaint until the impost was extinguished by an Imperial Act in 1838. For the origins of the 4½ per cent. duty see C. S. S. Higham, *The Development of the Leeward Islands . . . 1660–1688*, Camb. 1921, ch. i.

present, nor is, I fear, reasonably to be expected. Thus much however has been done in Ireland, and in the Leeward Islands. An hereditary revenue has been granted to the Crown for the maintenance of its honour and dignity. No appropriation has ever been made of these revenues; but I understand the Crown to have always held and exercised the power of making grants out of their produce, in pensions or otherwise, on the same general principles with respect to the King's prerogative, as those on which similar grants were made out of the hereditary revenue in this country, previous to the arrangement by which that revenue was exchanged for the civil list.

In the case of Ireland, such grants have certainly been in constant usage, and have by no means been confined to mere Irish claims either of service or favour. A part of the maintenance of the Royal Family is, as I take it, now charged on that fund. . . .

I mention these as objects which appear to be of a general nature, and in which all parts of the Empire have a common share. In addition to these it would be easy to enumerate a great variety of instances where grants of this nature have been made on occasions which have been more exclusively connected with the convenience or service of government in Great Britain.

The revenue which is received from the Leeward Islands I take to be in many respects in the same situation with the hereditary revenue of Ireland. It seems to me to be accepted as a contribution, though a very inadequate one, towards the expenses which this country incurs on their account, and towards their proportion of the general expenses of the Empire. And not being specially appropriated by Parliament, I hold it to be disposable by the Crown under the control of Parliament to purposes of general government, and to the reward of such persons as His Majesty judges to be fit objects of His favour or recompense. . . .

I cannot however but feel that, even in the present undefined situation in which we stand with respect to the expenses and contributions of our colonies, it would be better in point of appearance, though in effect the same, if this particular revenue were more specially applied to defray the charges which we incur on account of the islands; and if that portion of our general revenue which would by this measure be liberated, were added to the amount which the King may now apply from His civil list in pensions to such persons as have merited these rewards. But no alteration of this nature could be made without the special interposition of Parliament; and I have no difficulty in saying that if the effect of stirring this question there [even?] as a matter of appearance towards the colonies, were, as it might probably be, to diminish by this amount the present power of the Crown in this respect, I should not think the change an advantageous one.

It has been the common practice, in such discussions in Parliament, to confound particular instances of the exercise of this power which

have been unpopular, whether justly or not, with the merits of the question which relates to the existence of the power itself. For my own part I have always felt that the power of conferring pecuniary rewards was of absolute and indispensable necessity in order to maintain the executive Government in this country, and to enable it to discharge those duties which it owes to the people; and I fairly own that I think this power, as it now stands, by the regulation of the civil list, and by the aids which can be drawn from the hereditary revenue in Ireland, and from the 4½ per cent. duty, is not extended beyond those limits which are warranted by that necessity which I have stated. But it is easy to see that the discussion of these topics in Parliament, though, I think, by no means to be avoided where necessity calls for their introduction, is nevertheless liable to the effect and operation of other notions; and that the success of such an argument might not depend on its justice or propriety.

This being the case, the advantage which would be gained by carrying such an arrangement being a point merely of appearance towards the colonies; and the danger to be incurred by proposing it being that of limiting the power of Government in an instance where I think it by no means too large at present; it appears to me that in point of fair and reasonable policy it ought not to be attempted; and that it is better to leave the business in the situation in which it has so long stood, and in which the cause of complaint, if any, is certainly not on the side of the colonies. . . .

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CANADA: MEMORANDUM ON QUESTIONS AT ISSUE IN FRAMING A NEW CONSTITUTION 1789[1]

[The petitions and counter-petitions from Canada are considered, together with Lord Dorchester's comments on the proportionate weight and opinions of the habitants, seigneurie, and English-speaking settlers.]

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House of Assembly

1st. The first point prayed for in the petitions is a House of Assembly, which it is proposed should be triennial and should be composed of old and new subjects, in such manner as the King may think proper.

Besides the general and obvious topics which result from a comparison of the present form of government in Canada with the con-

[1] C.O. 42/21, ff. 65–97. Enclosed in dispatch from Grenville to Dorchester, 20 October 1789 (printed in W. P. M. Kennedy, *Statutes, Treaties and Documents*, Oxford 1930, pp. 184–8). The paper has no date or signature, but it appears to have been at any rate based upon the memorandum which Grenville drafted and submitted to Thurlow. The document is printed in full in Shortt and Doughty, vol. ii, p. 970.

stitution of Great Britain, and from a consideration of the probable increase of the province, and particularly of the British inhabitants there, the principal arguments urged in favour of this measure are the following:

1st. The King's promise, as conveyed by His proclamation of 1763, by which the benefits of the British constitution are stated to have been offered to such of His subjects as should settle in Canada.

2dly. The natural wish which the Loyalists must be supposed to feel for the enjoyment of a constitution similar to that under which they were bred, and for which they have sacrificed so much; although they do not appear as yet to have joined in any of the petitions which have hitherto been presented on this subject.

3dly. The general benefits which would result to the colony from a Legislature established on the principles of the British constitution, and particularly the indispensable necessity which now exists for constituting some form of government competent to impose taxes for the internal purposes of the province, as this power is withheld by the Quebec Act from the Legislative Council, and as on this account many important objects of internal improvement must either be wholly obstructed, or must fall as a considerable and increasing burthen on Great Britain.

Objections

The objections of the counter petitioners fall under the following heads, viz:

First, an allegation that their distresses make them unable to bear the taxes, which they consider as a consequence necessarily resulting from this measure; secondly, the apprehension that in the formation of an Assembly a preponderance might be given to the old subjects, which, it is represented, would be unjust, considering how small a proportion they bear, in point of numbers, to the new subjects; and would be injurious to the latter by subjecting them to new regulations, passed by persons ignorant of their customs and existing laws.

Thirdly, the fear that this measure might lead to the introduction of the whole body of British laws, of the extent and tendency of which the Canadians are entirely ignorant.

That it might produce disquietude among the people, and that the low state of information and learning in the country might expose them to the pursuit and adoption of injurious or destructive measures.

A difficulty is also stated, with respect to the inconvenience and expense of sending representatives from the distant settlements, arising from the peculiar manner in which the inhabitants of Canada are settled along the banks of the river only, and going very little way back into the country in any part of it.

These are the objections principally urged, but it is probable that the real grounds of uneasiness, which have most operated, arise from

the apprehension which the seigneurs entertain of losing the privileges and distinctions of their seigneuries, to which they are extremely attached, and of seeing their usages and customs, particularly those which relate to landed property, overthrown by the preponderance of the old subjects in the Assembly. And from a fear on the part of the Canadians, in general, of being subjected to the payment of taxes, from which they have hitherto been exempted.

In considering the first point stated in favour of the request, it may be doubted whether, in point of fact, the form of government to be established in the province entered much into the consideration of those British subjects who actually settled there.

The second point, which relates to the alleged wish of the loyalists upon this subject, appears to deserve great attention as far as they are concerned; for, if their case could be separated from the rest, no part of the objections before stated would apply to them, any more than to the persons of a similar description settled in the provinces of Nova Scotia or New Brunswick, and it would only remain to be considered whether there was (on general grounds of policy) any reason for placing this colony on a different footing from the other dependencies of Great Britain.

With respect to the 3d consideration, it is undoubtedly of great importance. A government cannot be supposed to exist in any country for any considerable length of time which is defective in so essential a power as that of assessing, levying, and applying the contributions of individuals in order to execute those objects which are of general necessity, or advantage to the community.

It does not seem that any reliance can properly be placed on their present silence on these subjects as implying an indifference to them. The apprehension of giving umbrage to Government under their present —— and perhaps a strong sense of what they have so recently suffered from political dissensions, have probably operated to restrain them for the present. But every circumstance appears to indicate that their wish upon this subject will be to partake of the forms of the British Government. And indeed this desire may be pretty strongly collected from the great anxiety which they have expressed to hold their lands not by Canadian but by British tenures.

Whatever form of constitution therefore is to be adopted for this province, it appears evident that there must exist somewhere a power competent to the exercise of these functions. Such a power cannot any longer be stated to reside in the Parliament of Great Britain; although at the time of passing the Quebec Bill this was clearly the mode of taxation to which it was intended to resort whenever occasion should require it. But, whatever difference of opinions may formerly have prevailed with respect to the right of the Mother Country to impose on the colonies contributions for the purposes of general defence or of internal regulation and improvement, the exercise of

any such right is now, by an express and formal declaration on the part of Great Britain, abandoned for ever.

It was indeed never understood with respect to the ancient colonies that the right of the British Parliament could be so exercised as to supersede the interference of the provincial legislatures in imposing contributions for purposes which were wholly of a local and domestic nature, and it may be doubted whether the local peculiarities of Canada, and the circumstances of an increasing colony, would not, even under the former system, have made it necessary that, in order to provide for objects of internal government, some power of taxation should reside upon the spot.

It is however evident that, in our present circumstances, the establishment of such a power is the only mode by which Great Britain can hope to be delivered from the heavy expenses which she now supports on account of that province, or from the expectation of new and increasing burthens, in proportion as the population and wealth of Canada may require a more extensive system, for the administration of justice and for the exercise of government. And this consideration will, perhaps, appear more worthy of attention when it is stated that the present expense incurred by Great Britain, on account of Canada, amounts to near £100,000 per ann: exclusive of the pay of the troops kept up there.

If then the power here spoken of is to reside upon the spot, the first and most important consideration, in any discussion of the affairs of Canada, must be in whom such authority shall be vested. On examining this question, it will perhaps be found that a power of this nature cannot, without the greatest difficulties, be supposed to reside in any other man, or body of men, than in a Legislature, formed nearly on the model of the constitution of Great Britain and of the British provinces.

Such authority can be conferred only by Parliament and, even if it should be thought in itself a desirable measure, it would be difficult to prevail upon Parliament to vest this power in a body constituted upon different principles from those which are recognized as the basis of our constitution.

It may also be remarked that, if it be true, as appears both from the general tenor of the papers and from Lord Dorchester's opinion, that the fear of being subject to the payment of any taxes has, of all objections, operated the most strongly to render the Canadians disinclined to an Assembly, it must unquestionably be true that they would see with much more reluctance the same power vested not in a body of persons, chosen by themselves and likely to act under the same interest with that of their electors, but in some other body, whatever it might be, over which they could have no control and with whom they might have no common interest.

It does not seem that this point has ever been fairly stated to them.

The option has appeared to them to be, not between one mode and another of creating a power competent to impose taxes, but between a Government not possessing that power, and a Legislature invested with it: but, if this misapprehension were removed, there does not appear any ground for believing that a Legislature, wholly constituted by the Crown, or appointed in any other mode, would be more agreeable to the bulk of the Canadian inhabitants than one, in part, composed of persons elected by themselves.

The case of the noblesse may be different. It is possible that they may apprehend injury to their peculiar rights from the establishment of a popular Assembly, particularly if that Assembly were so constituted, as to give a considerable and immediate preponderance to persons whose education, habits and mode of thinking must render them adverse to the French laws and customs; and many of whom may, besides, be supposed to be heated by the contests, which have so long subsisted in that province.

This, which is, in some degree, a just and reasonable apprehension, is therefore entitled to attention. But no sufficient objection will arise from hence, against the establishment of an Assembly, if it can be accompanied with such measures as will guard against the danger of the preponderance apprehended. And, on a consideration of the situation of the different parts of the province, there seems a natural mode of removing this objection, and of rendering, at the same time, the whole arrangement more satisfactory to the different classes of inhabitants in the province.

Quebec is now divided, in fact, though not by law, into two districts; differing essentially in the habits, laws and manners of the majority of the people by whom they are inhabited: Lower Canada, or that nearest to the Gulf of S. Lawrence, is inhabited by the descendants of the French, with the addition of some British, in the towns of Quebec, Montreal, and Trois Rivières, and in the new settlement in Gaspé. The Upper Canada is almost entirely settled by the Loyalists.

If these two bodies and classes of men, differing in their prejudices and perhaps in their interests, were to be consolidated into one legislative body, dissensions and animosities might too probably prevail; and the success of either party might, in fact, be injurious to the other. It should seem, therefore, that the natural remedy for this would be the separation of the province into two districts, having distinct Legislatures, in which the separate interests of the old and new subjects might preponderate, according to the respective proportion of population and of wealth.

If this were done, it would perhaps enable the Government of this country to gratify the wishes of all descriptions of persons in Canada, and to provide for the essential object of taxation above stated by the establishment of a Council and House of Assembly in each of these districts; and if the several objections, which are detailed above, are

examined with a view to a measure of this nature, it will perhaps be found that so much of them as is really material to be attended to would, by these means, be obviated.

The first of those objections is one which applies, as has before been stated, not to an Assembly merely, but to any power possessing authority to impose taxes. And it is evident that such an objection cannot be allowed to operate, unless Great Britain were content to take permanently upon herself the whole present and future expense of the province.

The second, which respects the proportion of old and new subjects to be admitted into the Assembly, would be obviated by the division of the province as already proposed into two districts, in one of which, the old, and in the other the new, subjects would greatly preponderate.

The third, which arises from the alarm which the Canadians feel at the introduction of an unknown body of new laws, would be obviated by the same measure; while it would, at the same time, be in the power of Parliament, in the first instance, and previous to the commencement of the new Government, to provide for any change in the commercial code of the province, which may, on examination, be found to be really necessary for the security and protection of the British merchant.

This part of the subject respecting the commercial laws is however now under the consideration of His Majesty's law servants, and it appears therefore premature to enter at present more fully into the consideration of it.

With respect to the fourth objection, which relates to apprehensions of disquietude and of wrong measures which may be pursued through ignorance, it is of too general a nature to admit of being much reasoned upon: it may however be observed,—that the province is certainly very far from being now in a composed or tranquil state.—

That under the present management the dissensions are likely not only to continue but to increase, because, by the influx of British settlers and the rapid progress of the British commerce, the party, who are dissatisfied with the present form of government, will continually be increasing their weight and influence in the country at large without acquiring, at the same time, a proportionate increase of weight and influence in the Government:—

That with respect to the apprehensions of ill-judged or ignorant measures, the giving to the people a share in the government has been found by experience to be a measure calculated to diffuse among them that knowledge which they may now want;— and that, in the interval, the check of the Council and of the Governor exercising the Royal Negative would be as effectual, in that form, as in the present, to prevent innovations injurious to the community.

The difficulty arising from the expense of representation is of less moment. It is one which is, to a degree, incident to all forms of free

government, and it would be much lessened by the division of the province. . . .

A doubt has indeed been started whether the situation of the inhabitants of Canada, under the present landed tenures, is such as renders them sufficiently independent of the seigneurs to make them capable of receiving a free constitution. Upon the best enquiry which could be made upon this subject, it appears that the tenure under which the Canadian farmers hold their lands differs in fact from that of British freeholders only in a few inconsiderable points which do not seem of sufficient importance to obstruct the measure of an Assembly, to be chosen by persons holding under such tenures, supposing that the measure should appear, in other respects, desirable.

Council

The second point in the petitions relates to the establishment of a Council, which, it is proposed, should consist of 30 members, to serve without salary, and to be appointed during life or residence. To this, no specific objection is made, but the counter-petitioners remark that, although the finding persons to serve without salary might be desirable, it would be difficult in the present state of the province. Although it is not expressly stated in the petition, it appears probable that in the formation of such a Council, as is here proposed, the petitioners had in view the constitution of the other British colonies, where the Upper House of the Legislature and the Executive Council form one and the same body. But it may perhaps be said, with truth, on a view of the old colonial governments, that the constitution of the second branch of the Legislature was, of all others, the point in which they were the most defective.

If it was intended to assimilate those governments in form or principle to that of the Mother Country, it is sufficiently obvious, that the aristocratical part of our constitution was but ill supplied by a body, which, taken collectively, formed a part of the executive Government, and the individuals of which were liable to be removed from their legislative function at the pleasure of the Crown, and acquired no permanent rank or distinction above the rest of the community.

To the want of an intermediate power, to operate as a check, both on the misconduct of Governors, and on the democratical spirit which prevailed in the Assemblies, the defection of the American provinces may perhaps be more justly ascribed than to any other general cause which can be assigned. And there seems to be no one point of more consequence, in this view, than the labouring to establish, in the remaining provinces, a respectable aristocracy as a support and safeguard to the monarchy, removed, as it is, at so great a distance, and on that account so much less powerful in its weight and influence upon the people at large.

This consideration must unquestionably lead, in the first place,

to the giving to the individuals who are to compose the Upper House a more permanent tenure in that station than the will of the executive Government. Supposing that, on this idea, the seats in the Legislative Council, or Upper House, should be given, as proposed, for life, or during residence, it follows that the Executive Council, which is to participate in the administration of government, must be a body constitutionally distinct from the Legislative Council, though it may, in part, be composed of members of either branch of the Legislature. This is assumed as a necessary consequence of what has before been stated:

First, because the principle of assimilating the Legislative Council more nearly to the Upper House in England appears to require it.

Secondly, because it is evident that the station of an Executive Councillor cannot with propriety be conferred for life.

Supposing then these principles established, the Legislature would be composed of an House of Assembly as stated above, and of a Legislative Council, the members of which would be appointed during life, and would receive no salary for the duties of that station. This body would be distinct from the Executive Council, and it ought to be unlimited in point of number, in order to preserve to the Crown the full exercise of its prerogative in that respect. If any mark of honour or distinction could either be annexed to the station itself, or given to the persons called to it, even with descent to their families (it being always understood that the station itself was not descendible), this circumstance would afford an additional source of respect and consequence to them, and would thereby strengthen the principle which has already been explained—in a Legislature thus composed, the power of the Crown, as far as it would be exercised in the province, would, of course, be represented by the Lieutenant Governors or Governor General; but it might perhaps be an object well worthy of an attentive consideration, to enquire whether any adequate means could be found of rendering the royal negative more efficient both on the spot, in the hands of the King's representatives, and as exercised at home, by the King himself with the advice of his Council.

This object might perhaps in some degree be attained by a discrimination of the different objects of legislation, so as to vest in the Governor the full legislative power of the Crown only in certain cases of urgent and temporary emergency; while, in other cases, according to their respective nature and importance, there might either be reserved to the King a power of disallowing, as at present, or His express consent might be rendered necessary, in order to give to the Acts of the provincial Legislature the full force and validity of law. . . .

Existing Laws

The last article relates to the repeal of the present, existing laws. This appears wholly unnecessary, and would be inconsistent with

the means pointed out above of securing to the commercial interest of Quebec the laws necessary for their protection. In the foregoing discussion, the several objects mentioned in the petitions have been separately detailed, with a reference to the different objections stated to them by the counter-petitioners, and to their probable effect on the internal state of the province.

But in forming a decision on points of so much importance and extent, it is undoubtedly material that they should be examined in a more enlarged and general point of view, and that it should be considered by what means the connection and dependence of Canada on this country may be so preserved and cultivated as to be rendered most beneficial to Great Britain during its continuance and most permanent in its duration.

In this view, a doubt may naturally suggest itself, both from an opinion which seems to be pretty generally received, and from an observation of the late events in America, whether the degree of freedom which the measure now proposed would give to the Canadians is not inconsistent with the existence of a dependent Government. It may perhaps be justly doubted whether any form of administration which could now be established would prevent the separation of so great and distant a dominion, after it should have arrived at a certain point of extension and improvement. But the real question now to be decided is what system is best calculated to remove this event to a distant period and to render the connection, in the interval, advantageous to the Mother Country without oppression or injury to the colony?

It is certainly very material to examine the constitution of our former colonies with a view to this question, in order that we may profit by our experience there, and avoid, if possible, in the government of Canada, those defects which hastened the independence of our ancient possessions in America. And the result of such an enquiry will perhaps show that the revolt of those provinces is not justly to be ascribed to a communication of the British constitution, which, in fact, they never enjoyed; but that, as their form of government differed essentially from that of Great Britain, so the points in which that difference consisted, were those which operated most to produce their separation from the Mother Country, and which are avoided in the plan now suggested for the constitution of Canada.

Such an examination does indeed assume a point which is liable to be much questioned, and which it would perhaps be very difficult to maintain by any grounds of general reasoning or speculation. The establishment of a separate and local Legislature in a distant province, under any form or model which can be adopted for the purpose, leads so evidently to habitual notions of a distinct interest, and to the existence of a virtual independence as to many of the most important points of government, that it seems naturally to prepare the way for

an entire separation, whenever other circumstances shall bring it forward. If therefore the subject were entirely new, and if the preservation of the dependence of a colony on its Mother Country were the only object to be considered, it should seem that this would best be attained by reserving at home the whole right and exercise of the power of legislation; and that this system, though certainly less adapted to promote the prosperity of the province, would probably be effectual to maintain for a very considerable time the union of the Empire.

But it has happened, either from accident or necessity, that a different principle has been adopted in the formation of all the British colonies, and even in the constitution which has already been given to Canada. We have established there, though in a different manner from what was done in the other colonies, a distant local Legislature, competent to all the powers of government except taxation. And this last power, which, by the Quebec Bill, we had reserved to the British Parliament, we have since been compelled by our own formal declaration in 1778, and perhaps still more by the circumstances of the present times, to relinquish and abandon.

Taking it then for granted that some Legislature must exist in Canada, for the exercise of those functions which are now vested in the Legislative Council, and for the purpose of taxation, the necessity of which has before been stated, it remains to compare the plan which is now proposed for Canada with the constitution of the ancient colonies.

It will appear, on such examination, that, in the formation of those governments, while full scope and vigour were given to the principles of democracy by the establishment of a popular representation in their houses of Assembly, no care was taken to preserve a due mixture of the monarchical and aristocratical parts of the British constitution.

The defects in the formation of the second branch of those Legislatures, or of the Council, as it was called, have already been mentioned in the discussion of one of the points of the petitions. Those in the constitution and administration of the executive Government were scarcely less glaring, and had, unquestionably, a powerful operation in producing the defection of the colonies. The situation of those countries removed them from the seat and residence of the royal authority. Whatever effect arises, here, from the immediate presence of the Sovereign, or from the influence of His Court, was therefore necessarily lost, at so great a distance from the Mother-Country.

The nature of the situation allotted to the Governors in America, the limited extent of their authority, the dependence, in which they frequently found themselves, on the colonies even for their own support and maintenance, the little consequence annexed to their station, and sometimes the character and rank of the persons sent there,

were but ill adapted to remedy the defect arising from the absence of the Sovereign.

In addition to these considerations, the power of conferring honours and emoluments enables the Sovereign, in this country, to animate the exertions of individuals, and to secure their attachment to the existing form of government, by all the fair objects of just and honourable ambition. The case was widely different in the colonies. The rewards of the Crown were few; they were such as conferred little distinction; and they were perhaps sometimes bestowed with a very small degree of attention to the principle which has here been stated. If these defects could at all be remedied by an attention to those causes in which they have originated, there might be just reason to hope that the consequences would be different.

With respect to the first point, much has already been done. The consolidating the different Governments in the remaining colonies under one person must operate to give weight and dignity to the representation of the executive authority.

The union of the supreme civil and military power in the same hands is a measure of a similar tendency and effect; and it appears reasonable to hope that the footing on which that situation is now placed, in point of consideration and emolument, will give as much security as the nature of the thing itself will allow for its continuing to be filled in a proper and adequate manner, and that it is already rendered so far independent of the different colonies over whom the Governor General presides that no diminution of dignity or weight to the executive authority will arise on this account.

The second point, which relates to the distribution of the favours and rewards of the Crown, is attended with greater difficulty, on account of the limited extent of these objects in the government of a colony which is yet in its infancy. Something of this sort will, however, arise from the measure which has before been mentioned, with a different view, of conferring on the persons who may be called to the Upper House of the Legislature some personal or hereditary distinction of honour and nobility.

The establishment of a military force within the province, in the nature of a militia, is a measure which has already been adopted on the recommendation of Lord Dorchester; and the ideas stated by him on the subject have the object of rendering the Commissions, in this establishment, the means of preventing the Canadian noblesse from serving in the French army, as is now too frequently the case.

Other objects of this nature will, by degrees, arise as the consequence of the colony itself increases, and as the detail of its government becomes gradually more enlarged; and the Act which has been passed in the British Parliament for enforcing the residence of persons appointed to provincial offices has an evident tendency to produce, in no inconsiderable degree, the object here desired, of having constantly,

within the provinces, a certain number of persons, attached by these means to the existing form of government and to the connection with the Mother Country.

There is another point of obvious and striking difference between the constitution of the former colonies and that of this kingdom, and it is, in some degree, connected with this part of the subject. In Great Britain and in Ireland, although it is necessary annually to have recourse to Parliament for the support, and maintenance of the military force, yet, for the purposes of His civil government, the King possesses a large, hereditary revenue; and this, although it is here given up by a temporary exchange for the civil list, is considered as a subsisting fund, and revives at every demise of the Crown, so as to be applicable to the expenses of the civil government.

In America, nothing of this sort has been established; the expenses of government there have either been borne by this country, or they have been defrayed by taxes imposed by the provincial Legislatures. In either case, they would naturally be inadequately provided for. The Government of this country could not but feel a just reluctance to add to the burthens of the people of Great Britain, on account of objects so remote to their interests or feelings; while, on the other hand, the colonists would naturally be very slow in imposing taxes on their own agriculture, commerce or consumption, for the purpose of maintaining establishments in which they were hardly allowed to share, or of adding to the number of civil officers, absent from the duties of their stations.

The effect was not confined to the mere want of patronage or rewards for services; it had a general tendency to diminish the weight and consequence of Government itself, when the duties, which all government owes to those who are governed, were either not performed at all, from the want of proper offices for the purpose, or were performed by persons whose situation in life did not entitle them to the respect or confidence of their fellow-citizens.

It is certainly difficult to propose a remedy for this evil, which may, however, perhaps appear not so much one actually existing in Canada, as one which may probably arise, if the expected increase of wealth and population there should not bring with it an increase of resources for the maintenance of a more extensive system of government.

No additional expense to Great Britain on this account can or ought to be proposed; and the difficulties which prevented the levying a sufficient revenue, for the purposes of government, in the American Atlantic provinces, are likely to operate with quite as much force in that of Canada. There is certainly great reason to regret that this object has hitherto been overlooked in the first establishment of all our colonies: because, at that period, it would have been easy to have secured this point, by measures similar to those which are said to have been adopted by Penn, in the original settlement of

Pennsylvania; who, by reserving to himself and to his heirs a certain portion of land, situated in the middle of every grant made to individuals, secured a property which could not but increase in value in proportion to the increase of the colony itself.

This gradual and proportionate rise in the value of such reservations, without any expense to be bestowed upon them, renders this mode peculiarly adapted to the object which has been spoken of above; because it would thus evidently afford a resource increasing with the occasion of the demand which it is calculated to answer. Perhaps it is not too late, even now, for the adoption of such a system; there are, even in Lower Canada, large tracts, still ungranted, which any increase in the population of the province must render valuable from their situation, without requiring any expense of clearing or cultivation to be bestowed upon them by the Crown; and, in Upper Canada, the cultivation may be said to be still in its infancy, even on the banks of the waters along which it spreads. The inner countries have not been attempted to be settled, in either district of the province; and this measure of a reservation to be made in all future grants is recommended by Lord Dorchester, in one of his letters, though, as it appears, rather with a view of retaining the power of rewarding individuals, than with that of securing a revenue to the Crown, for the purposes of the provincial government.

These are the several ideas which have occurred, on a consideration of this subject, as holding out the best grounds of establishing, in Canada, a form of government well adapted to promote the prosperity of that province, and free from the errors which have prevailed in the constitution of the ancient colonies. And, if they can, in any sufficient degree, be carried into effect, it may perhaps be thought that they would afford a juster and more effectual security against the growth of a republican or independent spirit, than any which could be derived from a government more arbitrary in its form or principles.

But even if the advantages which appear to result from these measures were visionary and chimerical, and if it were agreed that the danger of separation would be increased by giving to Canada a constitution assimilated, as is here proposed, to that of Great Britain, it may still be asked whether this plan is not become a point of almost inevitable necessity. The neighbourhood of the American States, and even of the remaining British colonies, seems to make it impossible that the people of Canada should acquiesce, for any considerable length of time, in the continuance of a system at all resembling that under which they are now governed. The discontents which have already arisen there on this subject have now brought the question forward to the public view; if, in the discussions which will arise upon it in the next session of Parliament, the present form of government in Canada is to be supported, it can be done only by speaking

out and avowing fairly that the object is to retain the dependence of the province by establishing in it a constitution less free than that which existed in the ancient colonies, or than that which has been established in those provinces which still remain to Great Britain. And, considering the general temper of the present moment, it may well be doubted whether it would be possible to maintain with success (supposing, even, that it were desirable to do so) either that these means are well calculated for attaining the object in question, or that the object itself ought to be aimed at, by denying to so large a body of British subjects the benefits of the British constitution; particularly in those points which are considered so essential as those which are here in question.

13

CANADA: THE CONSTITUTIONAL ACT

31 Geo. III, cap. xxxi[1]

An Act to repeal certain parts of an Act, passed in the fourteenth year of His Majesty's reign, intituled, 'An Act for making more effectual provision for the government of the province of Quebec, in North America'; and to make further provision for the government of the said province.

. . . II. And whereas His Majesty has been pleased to signify, by His message to both Houses of Parliament, His royal intention to divide His province of Quebec into two separate provinces, to be called the province of Upper Canada, and the province of Lower Canada; be it enacted by the authority aforesaid, that there shall be within each of the said provinces respectively a Legislative Council, and an Assembly, to be severally composed and constituted in the manner hereinafter described; and that in each of the said provinces respectively His Majesty, His heirs or successors, shall have power, during the continuance of this Act, by and with the advice and consent of the Legislative Council and Assembly of such provinces respectively, to make laws for the peace, welfare, and good government thereof, such laws not being repugnant to this Act; and that all such laws, being passed by the Legislative Council and Assembly of either of the said provinces respectively, and assented to by His Majesty, His heirs or successors, or assented to in His Majesty's name, by such person as His Majesty, His heirs or successors, shall from time to time appoint to be the Governor, or Lieutenant Governor, of such province, or by such person as His Majesty, His heirs or successors, shall from time to time appoint to administer the Government within the same, shall be, and the same are hereby declared to

[1] Printed in Shortt and Doughty, vol. ii, pp. 1031–50.

be, by virtue of and under the authority of this Act, valid and binding to all intents and purposes whatever, within the province in which the same shall have been so passed.

III. And be it further enacted by the authority aforesaid, that for the purpose of constituting such Legislative Council as aforesaid in each of the said provinces respectively, it shall and may be lawful for His Majesty, His heirs or successors, by an instrument under His or their sign manual, to authorize and direct the Governor or Lieutenant Governor, or person administering the Government in each of the said provinces respectively, within the time hereinafter mentioned, in His Majesty's name, and by an instrument under the Great Seal of such province, to summon to the said Legislative Council, to be established in each of the said provinces respectively, a sufficient number of discreet and proper persons, being not fewer than seven to the Legislative Council for the province of Upper Canada, and not fewer than fifteen to the Legislative Council for the province of Lower Canada; and that it shall also be lawful for His Majesty, His heirs or successors, from time to time, by an instrument under His or their sign manual, to authorize and direct the Governor or Lieutenant Governor, or person administering the Government in each of the said provinces respectively, to summon to the Legislative Council of such province, in like manner, such other person or persons as His Majesty, His heirs or successors, shall think fit; and that every person who shall be so summoned to the Legislative Council of either of the said provinces respectively, shall thereby become a member of such Legislative Council to which he shall have been so summoned. . . .

[IV–V. Legislative Councillors must be at least 21 years of age and British subjects by reason of birth or of cession, and normally are to hold their seats for life.]

VI. And be it further enacted by the authority aforesaid, that whenever His Majesty, His heirs or successors, shall think proper to confer upon any subject of the Crown of Great Britain, by Letters Patent under the Great Seal of either of the said provinces, any hereditary title of honour, rank, or dignity of such province, descendible according to any course of descent limited in such Letters Patent, it shall and may be lawful for His Majesty, His heirs or successors, to annex thereto, by the said Letters Patent, if His Majesty, His heirs or successors, shall so think fit, an hereditary right of being summoned to the Legislative Council of such province, descendible according to the course of descent so limited with respect to such title, rank, or dignity; and that every person on whom such right shall be so conferred or to whom such right shall severally so descend, shall thereupon be entitled to demand from the Governor, Lieutenant Governor, or person administering the Government of such province, his writ of summons to such Legislative Council, at any time after he

shall have attained the age of twenty-one years, subject nevertheless to the provisions hereinafter contained. . . .

[XIV–XVI. The procedure to be adopted in demarcating the constituencies.]

XVII. Provided also, and be it enacted by the authority aforesaid, that the whole number of members to be chosen in the province of Upper Canada shall not be less than sixteen, and that the whole number of members to be chosen in the province of Lower Canada shall not be less than fifty. . . .

XX. And be it further enacted by the authority aforesaid, that the members for the several districts, or counties, or circles of the said provinces respectively, shall be chosen by the majority of votes of such persons as shall severally be possessed, for their own use and benefit, of lands or tenements within such district, or county, or circle, as the case shall be, such lands being by them held in freehold, or in fief, or in roture, or by certificate derived under the authority of the Governor and Council of the province of Quebec, and being of the yearly value of forty shillings sterling, or upwards, over and above all rents and charges payable out of or in respect of the same; and that the members for the several towns or townships within the said provinces respectively shall be chosen by the majority of votes of such persons as either shall severally be possessed, for their own use and benefit, of a dwelling house and lot of ground in such town or township, such dwelling house and lot of ground being by them held in like manner as aforesaid, and being of the yearly value of five pounds sterling, or upwards, or, as having been resident within the said town or township for the space of twelve calendar months next before the date of the writ of summons for the election, shall *bona fide* have paid one year's rent for the dwelling house in which they shall have so resided, at the rate of ten pounds sterling per annum, or upwards.

XXI. Provided always, and be it further enacted by the authority aforesaid, that no person shall be capable of being elected a member to serve in either of the said Assemblies, or of sitting or voting therein, who shall be a member of either of the said Legislative Councils to be established as aforesaid in the said two provinces, or who shall be a Minister of the Church of England, or a Minister, Priest, Ecclesiastic, or teacher, either according to the rites of the Church of Rome, or under any other form or profession of religious faith or worship.

XXII. Provided also, and be it further enacted by the authority aforesaid, that no person shall be capable of voting at any election of a member to serve in such Assembly, in either of the said provinces, or of being elected at any such election, who shall not be of the full age of twenty-one years, and a natural-born subject of His Majesty, or a subject of His Majesty naturalized by Act of the British

Parliament, or a subject of His Majesty, having become such by the conquest and cession of the province of Canada. . . .

[XXIII–XXVIII. The same disqualification shall attach to any person attainted for treason or felony. His Majesty may authorize the Governor to fix the time and place of holding elections, and of holding the sessions of the Council and Assembly, which are to be convened at least once in twelve months. All questions therein to be decided by the majority of votes.

XXIX. No member of the Council or Assembly is to sit or vote until he has taken the oath of allegiance as set out herein.

XXX–XXXII. The Governor may give or withhold His Majesty's assent to bills passed by the Council and Assembly or may reserve them for His Majesty's pleasure. The Governor is to transmit to the Secretary of State copies of all bills which have received the Assent, and His Majesty in Council may disallow any such bills within two years of receipt. Bills reserved for His Majesty's pleasure are to have no force until His Majesty's assent has been communicated to the Council and Assembly.

XXXIII. Laws in force at the commencement of this Act to continue so, unless repealed or varied by it.

XXXIV. The appellate civil jurisdiction, vested by the Quebec Act in the Governor and Council, is henceforth to be exercised by the Lieutenant-Governor and Executive Council in each province.]

XXXV. And whereas, by the above-mentioned Act, passed in the fourteenth year of the reign of His present Majesty, it was declared that the clergy of the Church of Rome, in the province of Quebec, might hold, receive, and enjoy their accustomed dues and rights, with respect to such persons only as should profess the said religion; provided nevertheless, that it should be lawful for His Majesty, His heirs or successors, to make such provision out of the rest of the said accustomed dues and rights for the encouragement of the Protestant religion, and for the maintenance and support of a Protestant clergy within the said province, as He or they should from time to time think necessary and expedient: and whereas by His Majesty's Royal Instructions, given under His Majesty's royal sign manual on the third day of January, in the year of Our Lord one thousand seven hundred and seventy-five, to Guy Carleton Esquire, now Lord Dorchester, at that time His Majesty's Captain General and Governor in Chief in and over His Majesty's province of Quebec, His Majesty was pleased among other things to direct, 'That no incumbent professing the religion of the Church of Rome, appointed to any parish in the said province, should be entitled to receive any tythes for lands or possessions occupied by a Protestant, but that such tythes should be received by such persons as the said Guy Carleton Esquire, His Majesty's Captain General and Governor in Chief in and over His Majesty's said province of Quebec, should appoint, and should be reserved in the hands of His Majesty's Receiver General of the said province, for the support of a Protestant clergy in His Majesty's said province, to be actually resident within the same, and not otherwise, according to such directions as the said Guy Carleton Esquire, His Majesty's Captain General and Governor in Chief in and over His Majesty's said province, should receive from His Majesty in that behalf; and that in like manner all growing rents and profits of a

vacant benefice should, during such vacancy, be reserved for and applied to the like uses'; . . . be it enacted by the authority aforesaid, that the said declaration and provision . . . shall remain and continue to be of full force and effect in each of the said two provinces of Upper Canada and Lower Canada respectively, except in so far as the said declaration or provisions respectively, or any part thereof, shall be expressly varied or repealed by any Act or Acts which may be passed by the Legislative Council and Assembly of the said provinces respectively, and assented to by His Majesty, His heirs or successors, under the restriction hereinafter provided.

XXXVI. . . . It shall and may be lawful for His Majesty, His heirs or successors, to authorize the Governor or Lieutenant Governor of each of the said provinces respectively, or the person administering the Government therein, to make, from and out of the lands of the Crown within such provinces, such allotment and appropriation of lands, for the support and maintenance of a Protestant clergy within the same, as may bear a due proportion to the amount of such lands within the same as have at any time been granted by or under the authority of His Majesty: and that whenever any grant of lands within either of the said provinces shall hereafter be made, by or under the authority of His Majesty, His heirs or successors, there shall at the same time be made, in respect of the same, a proportionable allotment and appropriation of lands for the above-mentioned purpose, within the township or parish to which such lands so to be granted shall appertain or be annexed, or as nearly adjacent thereto as circumstances will admit: and that no such grant shall be valid or effectual unless the same shall contain a specification of the lands so allotted and appropriated, in respect of the lands to be thereby granted; and that such lands so allotted and appropriated shall be, as nearly as the circumstances and nature of the case will admit, of the like quality as the lands in respect of which the same are so allotted and appropriated, and shall be, as nearly as the same can be estimated at the time of making such grant, equal in value to the seventh part of the lands so granted. . . .

[XXXVIII–XL. The Lieutenant-Governor of each province may be authorized to erect, in each parish where a Clergy Reserve has been established under this Act, parsonages 'according to the establishment of the Church of England', and to present Anglican incumbents thereto. They shall be subject to the ecclesiastical jurisdiction of the Bishop of Nova Scotia.

XLI–XLII. Provisions respecting the allotment of lands for support of a Protestant clergy may be varied or repealed by the Council and Assembly; but any local Act to amend these provisions must be laid before Parliament previous to receiving His Majesty's assent.]

XLIII. And be it further enacted by the authority aforesaid, that all lands which shall be hereafter granted within the said province of Upper Canada shall be granted in free and common soccage, in like manner as lands are now holden in free and common soccage, in that

part of Great Britain called England; and that in every case where lands shall be hereafter granted within the said province of Lower Canada, and where the grantee thereof shall desire the same to be granted in free and common soccage, the same shall be so granted; but subject nevertheless to such alterations, with respect to the nature and consequences of such tenure of free and common soccage, as may be established by any law or laws which may be made by His Majesty, His heirs or successors, by and with the advice and consent of the Legislative Council and Assembly of the province.

XLIV. And be it further enacted by the authority aforesaid, that if any person or persons holding any lands in the said province of Upper Canada, by virtue of any certificate of occupation derived under the authority of the Governor and Council of the province of Quebec, and having power and authority to alienate the same, shall at any time, from and after the commencement of this Act, surrender the same into the hands of His Majesty, His heirs or successors, by petition to the Governor or Lieutenant Governor, or person administering the Government of the said province, setting forth that he, she, or they is or are desirous of holding the same in free and common soccage, such Governor or Lieutenant Governor, or person administering the Government, shall thereupon cause a fresh grant to be made to such person or persons of such lands, to be holden in free and common soccage. . . .

[XLV. Such surrender shall not invalidate the title.]

XLVI. And whereas by an Act passed in the eighteenth year of the reign of His present Majesty, intituled, *An Act for removing all doubts and apprehensions concerning taxation by the Parliament of Great Britain, in any of the colonies, provinces, and plantations in North America, and the West Indies; and for repealing so much of an Act, made in the seventh year of the reign of His present Majesty, as imposes a duty on tea imported from Great Britain into any colony or plantation in America, or relates thereto* it has been declared, 'that the King and Parliament of Great Britain will not impose any duty, tax, or assessment whatever, payable in any of His Majesty's colonies, provinces, and plantations in North America or the West Indies, except only such duties as it may be expedient to impose for the regulation of commerce, the net produce of such duties to be always paid and applied to and for the use of the colony, province, or plantation in which the same shall be respectively levied, in such manner as other duties collected by the authority of the respective General Courts or General Assemblies of such colonies, provinces, or plantations are ordinarily paid and applied': and whereas it is necessary, for the general benefit of the British Empire, that such power of regulation of commerce should continue to be exercised by His Majesty, His heirs or successors, and the Parliament of Great Britain, subject

nevertheless to the condition hereinbefore recited, with respect to the application of any duties which may be imposed for that purpose: be it therefore enacted by the authority aforesaid, that nothing in this Act contained shall extend, or be construed to extend, to prevent or affect the execution of any law which hath been or shall at any time be made by His Majesty, His heirs or successors, and the Parliament of Great Britain, for establishing regulations or prohibitions, or for imposing, levying, or collecting duties for the regulation of navigation, or for the regulation of the commerce to be carried on between the said two provinces, or between either of the said provinces and any other part of His Majesty's dominions, or between either of the said provinces and any foreign country or state, or for appointing and directing the payment of drawbacks of such duties so imposed, or to give to His Majesty, His heirs or successors, any power or authority, by and with the advice and consent of such Legislative Councils and Assemblies respectively, to vary or repeal any such law or laws, or any part thereof, or in any manner to prevent or obstruct the execution thereof.

XLVII. Provided always, and be it enacted by the authority aforesaid, that the net produce of all duties which shall be so imposed shall at all times hereafter be applied to and for the use of each of the said provinces respectively, and in such manner only as shall be directed by any law or laws which may be made by His Majesty, His heirs or successors, by and with the advice and consent of the Legislative Council and Assembly of such province.

14

CANADA: LORD DORCHESTER TO THE DUKE OF PORTLAND, 20 February 1795[1]

Quebec.

[He complains that the growing practice of direct communication between London and the Lieutenant-Governors of the Provinces tends to weaken his own general powers of superintendence as Governor-in-Chief over both civil and military matters.]

. . . A different system has been since adopted, tending to revive the old colonial practice, which from an early period prepared, and gradually rendered all things favourable for leaders of rebellion, to usurp from Government the confidence and gratitude of the people; and ended in revolt and dismemberment of the Empire.

[1] C.O. 42/101, pp. 515–18. Printed in A. G. Doughty and D. A. McArthur, *Constitutional Documents . . . 1791–1818*, Ottawa 1914, pp. 183–4. *Sir Guy Carleton*, who had been Lieut.-Governor of Quebec (1766–78) and an architect of the Quebec Act (1774), became *Baron Dorchester* on being appointed a second time to take charge of the Quebec Government (1786). After it had been decided to replace the Quebec Act by some form of representative government, British Ministers applied to him in vain for constructive suggestions.

The great changes occasioned by this revolution in the political situation of these provinces; their distance from all succour and from the supreme seat of government, pointed out the necessity of an authority on the spot, to unite and call forth the greatest force their population would permit, and to act with promptitude in all cases where delay might be dangerous.

Thus constituted and united, our colonial strength might be in the proportion of one to fourteen, compared with the foreign power extending along our frontier: yet, in this critical situation, the drift of our present policy is to divide and subdivide, and of this remnant to form many independent Governments with as little communication and as little connection as possible; while that of our neighbours is to consolidate, and of many independent states to form one Government.

Instead of authority competent to carry on the King's service, to distribute orders, regulate their execution, and enforce obedience, it seems to be a measure of office to withdraw all power from the person with whom the King's Commissions have placed it; communications are made, and directions sent to inferior officers, whereby the intermediate authority is virtually superseded, which consequently acts as a recall on the person in the chief command; the injury is not in a recall, but in the manner of bringing it about, which breaks asunder all ties of subordination and overturns the authority of the Crown, delegated by the King's Commission.

Thus we not only preclude ourselves from the chance of profiting by occurrences which the course of time may bring forth, but endanger His Majesty's possessions on this continent still more and more. . . .

15

UPPER CANADA: LIEUT.-GOVERNOR J. G. SIMCOE TO THE DUKE OF PORTLAND

30 October 1795[1]

Navy Hall, Upper Canada.

. . . I beg leave to offer to your Grace a few observations in vindication of the principles which have regulated my conduct as submitted to your Grace in my letter No. 13, and in answer to which you are pleased to state as your opinion 'that neither the plan of creating corporations,[2] nor that of establishing Lieutenants of counties are at

[1] C.O. 42/320, pp. 13–23. Printed in Doughty and McArthur, op. cit., pp. 206–10. *Major-General John Graves Simcoe*, who as member of Parliament had taken a keen interest in the Canada Act of 1791, had been appointed the first Lieut.-Governor of Upper Canada in 1792 and served under Lord Dorchester, who was Governor-in-Chief. He was given command of the recently captured island of San Domingo in 1796 and did not return to Canada.

[2] This idea derived from Richard Cartwright, a prominent Legislative Councillor

all eligible in the present situation of Canada'. The very high respect that is, personally, due to your Grace, as well as that which I owe to your dignified station, make it necessary, in my own justification, not to be too apprehensive in engaging your Grace's time, particularly in the elucidation of objects of no trivial importance.

It appears proper I should state to your Grace that, uncontrovertibly, on my receiving the administration of the government of this province under the Canada Act, I did conceive, and stated to His Majesty's Ministers, that I considered the Act as the Magna Charta of the colony, and that it was my duty to render the province as nearly as may be 'a perfect image and transcript of the British Government and constitution'[1]—the *forms* of the British constitution, from the very seed plot in the province to their maturity in the parent state, being in my judgment essentially necessary for the preservation of the public tranquillity, and the best security for colonial allegiance—this certainly is personal opinion, and the whole attempt to govern a colony on these principles is undoubtedly an experiment; but the experiment originates from the new and distinct constitution given to Upper Canada, and is sanctioned by it; and my personal opinion has uniformly influenced my public conduct; for had Mr. Fox succeeded in his motion of rendering the Legislative Council of the province elective, it is well known that I should have, respectfully, declined the administration of the government.

I have already stated to your Grace, in No. 13, that to give a constitutional respectability to the members of the Legislative Council was a principal reason for my establishing Lieutenants of counties, but it by no means was the sole one—the distance that the seat of government, wherever placed, must be from many parts of the colony, seems to me to require a gradation of officers as absolutely necessary for its internal and subordinate regulation. Nothing presents itself more naturally than leaving the superintendency of such regulation in the hands of persons whom the colonists, principally disbanded soldiers, have long been accustomed to consider as their leaders; by having exercised the administration of justice, or having commanded them in the field; and from such persons it appears to me that the *recommendatory* power of adding to the magistracy and militia, where necessary, must have been deduced, under whatever name, had I not neglected the public interest; and

and a leading merchant of Kingston; see C. E. Cartwright, *Life and Letters of R. Cartwright*, Toronto 1876, pp. 142–3. For Simcoe's dispatch of 21 December 1794 and Portland's reply of 20 May 1795 see W. P. M. Kennedy, *Statutes . . .*, Oxford 1930, pp. 215–17. 'Anglicization', meticulous and instantaneous, was almost a religion with Simcoe (see E. A. Cruikshank, *Simcoe Papers*, vol. i, Toronto 1926, p. 27, and vol. iii, p. 265, for other examples). He considered it only 'just policy' to introduce the mulattos in San Domingo to the principles of the English constitution (16 June 1797, W.O. 1/66, pp. 121 ff.).

[1] See also Simcoe's address to the Legislative Council and Assembly 15 October 1792 (*Ontario Archives* for 1910, 7th Rept., Toronto, 1911, p. 11).

that the appellation of Lieutenant, by no means a novelty in the ancient colonies, while it contributes to their personal respectability, detracted in no degree whatsoever from the *direct power*, but added much to the *influence* of the King's representative; at the same time that it concentered, and rendered manageable, the internal government of this extended province—and of such utility, I beg to assure your Grace, I have found it. . . .

I therefore, upon the most mature deliberation, cannot but consider the establishment of Lieutenants of counties as the natural result of the constitution of the country, and as essential to the King's service; and since all my statements previously to my leaving England, and during my administration of this Government, have been formed on the propriety of supporting that just aristocracy which the Canada Bill has provided for; and since I have always estimated this power as barring the avenues to disaffection and sedition, by making a constitutional provision against those turbulent talents which may otherways with great facility gain a more than aristocratic ascendancy over a people, composed as are the generality of colonists, and who by the possession of such means may be capable and desirous of disturbing the operations of Government in the slightest, as well as the most essential particulars; and since I have always contemplated this aristocratic power as being the truest safeguard of the sovereignty against such machinations, particularly in a province where the *direct* weight of the executive power is as a feather, and it possesses none indirectly, the military being vested by the Commander in Chief in inferior agents. So I beg leave, with all due deference to your Grace, from these opinions to deduce the observation that I should be very happy was there sufficient property and other qualifications in any members of the Legislative Council to see the provision of the Canada Act, in this respect, immediately completed by an hereditary seat derived from a title of honour being vested in their families.

I cannot therefore under such impressions but feel myself proportionably mortified by the measures, which I have substituted in some degree as preparatory and leading to that event, being disapproved of by your Grace . . . .

16

UPPER CANADA: THE DUKE OF PORTLAND TO GOVERNOR SIMCOE

3 March 1796[1]

. . . Taking into consideration what has been already done with respect to the appointment of Lieutenants of Counties in Upper

[1] C.O. 42/320, pp. 49–51. Printed in *Simcoe Papers*, vol. iv, pp. 206–7.

Canada, it would certainly be highly unadvisable to pursue any measures for setting them aside.[1] It is not as to the principles upon which you judged proper to make those appointments that there can be any doubt or objections started. The observations in my letter of the 20th of May last were directed to the appointments themselves from a reasonable ground of apprehension, that in the present infant state of the Province, they would not be found to answer the end proposed. In introducing a new authority, such as that vested in Lieutenants of Counties into a new Government (should such a measure have been judged necessary) it appears to me that it would have been safer, and the influence which His Majesty's Representative thereby parted with would have been more easily controlled and directed, if the appointment of Lieutenants, in the first instance, could have been made to extend to the Districts or Circuits of the Province, instead of being multiplied and subdivided into Counties. . . .[2]

17

LOWER CANADA: LIEUT.-GOVERNOR SIR GEORGE PREVOST TO LORD BATHURST, 4 September 1814[3]

Head Quarters, Chazy,
State of New York.

My Lord,

I have to acknowledge the honour of your Lordship's private dispatch of the 12th July which reached me the 28th ult.

The divisions between the two Houses of Legislature and the intemperate proceedings of the House of Assembly alluded to in your Lordship's letter may and probably will in part be renewed at their next meeting, but however such proceedings are to be deprecated, I by no means apprehend from their renewal the evil consequences anticipated by your Lordship, or the want of that support from the House of Assembly which the loyalty and attachment of His Majesty's Canadian subjects have hitherto procured for me.

Amidst all the contests which have taken place between the two branches of the Legislature, it is but justice to the House of Assembly to say that I have invariably found a disposition on their part to forward the views of Government by promoting the measures I have

[1] Lieutenants had indeed been functioning for more than two years when Portland expressed his doubts.

[2] For comments on the working of the 1791 constitution, see the correspondence between Craig and Liverpool in Kennedy, op. cit., pp. 224–38.

[3] C.O. 42/157, pp. 177–85: a private dispatch. Printed in Doughty and McArthur, op. cit., pp. 465–8. *Lieut.-General George Prevost* had served in the West Indies and had been Governor of St. Lucia, of Dominica, and of Nova Scotia. In February 1811 he became Lieut.-Governor of Lower Canada and a year later Governor-in-Chief of British North America in succession to Craig. He was most successful in conciliating the French Canadians.

submitted for their consideration, and when those measures have failed of being carried through, it has been more owing to differences between the House and Council upon points of privilege and of a personal nature, than from any desire on the part of the former to embarrass the Government, or to withhold that assistance I was entitled to expect from them. At my first meeting of the provincial Legislature after my arrival in the province, I plainly saw that I could not rely upon the strength of the English party in the House for effecting those measures I might wish to carry through it.

That party being in numbers not more than one fifth of the representation and having, from the support it had given to the strong measures of the late administration, lost its former influence in the House and become objects of jealousy and distrust to the whole of the Canadian interest, I was sensible that by conciliating the Canadian representatives I could alone hope to succeed in the accomplishment of any object I might have in view (and which required the aid of the Assembly) for the furtherance of the public service in this colony.

I therefore early after I assumed the Government gave my attention to cultivate the good will of this class of His Majesty's subjects in the province, and by occasionally bringing them forward when favourable opportunities offered, and when they had a right to expect their interests and pretensions should be consulted, by making them partake of the patronage before almost exclusively bestowed upon the English subjects,[1] and by an attention to the Catholic clergy and more particularly to its Head, I succeeded in gaining the confidence of the people generally which has since strongly manifested itself in the readiness with which the House of Assembly, in the different sessions that have met since my residence in Lower Canada, have given in to my views and supported the measures I have submitted to them.

The leading members of the late House were those who suffered severely, and as they conceived unjustly, by their imprisonment under the former administration; it was therefore to be expected that, emboldened by the notice which had been taken of them, as soon as they began to feel their own consequence and power in being able to influence the proceedings of the Assembly, they would naturally be desirous to make that power felt by those whom they thought the authors of their ill treatment. The Chief Justice having become particularly obnoxious to them, from the part he was supposed to have taken in it, as Sir James Craig's principal adviser, they readily entered into Mr. Stewart's views and united with him in the proceedings which have taken place againse the two Chief Justices, and which being resisted on the part of the Council occasioned most of the contests that occurred between the two branches during the last

[1] One notable example was the appointment of Pierre Bédard, an editor of *Le Canadien* (whom Craig had imprisoned), to the post of Judge of the Provincial Court for Trois Rivières.

session. I am not however aware that in my former reports to your Lordship on this subject I have anywhere intimated that these contests had at all affected the cordiality which subsisted between the House and myself, or had induced them to withdraw the confidence they had before reposed in me. . . .

From what I have said on this subject your Lordship will perceive that it is not probable there can be more than one party in the present Assembly, and that almost wholly Canadian, with the power, as being in fact nearly the whole House, of effecting whatever their leaders may think proper to propose; with regard to their general principles and disposition, I cannot bring myself to think that they are either at present or likely soon to become hostile to His Majesty's Government—the support I have hitherto met with from the Assembly, I still confidently look forward to and from the characters both of the old and new members I trust I shall not be disappointed in my expectations of finding a majority willing to promote whatever measure I may propose for the good of the public service.

I am aware that a different opinion prevails on this head with some highly respectable officers of His Majesty's Government in this country and that by them the most criminal and corrupt views and motives are ascribed to the leaders of the Canadian party; that the late proceedings are considered as a proof of their wish and intention to lower in the public opinion all the constituted authorities, and thus by lessening the respect and attachment of the people to the Government to prepare the way for whatever change may be proposed.

This may possibly be true with regard to some few members of the House, although I very much doubt it,—but as respects the majority I conceive is unfounded, and that their loyalty and attachment are sufficiently strong to be proof against any such attempts to seduce them. . . .

By introducing into it [the Legislative Council] men of firmness and moderation who, at the same time that they would not give way to any open and marked infringement of the constitution, would occasionally yield to the reasonable wishes and views of the Lower House, the present heat and animosity subsisting between the two branches might perhaps be in a great measure allayed and more cordiality and agreement take place in their future proceedings.—But I do not think that the exercise of the power given to His Majesty by the 31st Geo: 3d. of making the office of Legislative Councillor hereditary and conferring upon them titles of honour would in the present state of the country be attended with any good effect—An hereditary and ennobled Legislative Council would be viewed by the Assembly with more jealousy and distrust than even the present one,—particularly as it would be extremely difficult to find amongst the Canadians characters sufficiently respectable upon whom that distinction might be conferred. To add to the present Council is however

absolutely necessary and it is therefore my intention shortly to propose to your Lordship the names of such persons as I think may be safely called to that House and who would form not only an accession of strength to it, but give it a character more likely to obtain the confidence of the Assembly than the present one. . . .

18

CANADA: SIR JOHN SHERBROOKE TO LORD BATHURST, 14 March 1822[1]

Calverton near Southwell, Notts.

My Lord,

I have been honoured with your Lordship's private and confidential letter of the 11th inst., the contents of which shall not transpire, and in reply to your question 'Whether the union of Upper and Lower Canada would have a beneficial effect', I answer, that if these provinces continue in the same state they were in at the time I relinquished the Government, an union would be very desirable, provided it could be established on proper principles, so that the undue influence of the Assembly should be somewhat controlled and the power of the Crown increased. But if such a measure were to be attempted, considerable difficulties must be expected before it could be reconciled with the jarring interests of the inhabitants and the variety of wild opinions so generally entertained.

Your Lordship's description of the persons usually returned to the Legislative Assembly of Lower Canada is perfectly correct. And the mischiefs arising from this cause are incalculable. I also agree that the Assembly of Upper Canada appears more tractable *at present*. But when I consider the vicinity of the latter province to the United States, the population continually flowing in from thence, the constant communication and intermarriages between the families on both sides of the line, the number of Americans who purchase the best of the lands as soon as they are cleared and every other description of property in Upper Canada worth having; and when I look to the loose demoralizing principles introduced by those people, I very much doubt whether reliance can be placed on a continuance of this tractable disposition.

I am fully aware my Lord of the evils arising from that ascendancy which the Catholics of Lower Canada exercise to the prejudice of whatever relates to the Protestant interest, but I suspect a very

[1] D. Brymner, *Report on Canadian Archives, 1897*, Ottawa 1898, pp. 1–2. This private and confidential letter was written in retirement by *Lieut.-General Sir John Sherbrooke*, who had served in the Maritime Provinces, India, and the Peninsula. In August 1811 he was appointed Lieut.-Governor of Nova Scotia, and in January 1816 he became Governor-in-Chief of Canada in succession to Prevost; but in 1818 he was obliged through illness to retire to England.

erroneous idea prevails in this country of the state of religion in Upper Canada. It might be supposed that the generality of the inhabitants being called Protestants were either of the communion of the established Church or of the Kirk of Scotland. Whereas the greater part are Methodists and Sectaries of every description. And I am sorry to add there are many who appear to have no sense of religion whatever.

Circumstances have materially changed since the separation of the two provinces, and I could not avoid remarking when I was in Upper Canada that in many instances a stronger bias prevailed in favour of the American than of the British form of Government. Whereas the Catholics in Lower Canada have a rooted antipathy to the Government of the United States, and have no dread equal to that of one day falling under its dominion. This trait of character I venture to press on your Lordship's attention, as whatever may be the fate of the Upper Province, the Americans will never be able to establish themselves in Lower Canada, whilst this feeling is cherished. . . .

19

UPPER CANADA: CONSIDERATIONS BY J. B. ROBINSON TO LORD BATHURST ON THE PROPOSED UNION, April 1822[1]

[The position of the population is not materially different from that which in 1791 dictated a division of the territory. Union would not necessarily increase the value or security of these two colonies; nor would it be a sovereign remedy for the main financial disagreements—the claims of Upper Canada for funds 'locked up in the Treasury of Lower Canada', and the need for a joint civil list. Neither in influence nor in numbers could the English population challenge French preponderance.]

. . . That an union of the provinces might add to their strength, by producing a more perfect community of interest and feeling, by subjecting their militia to an uniform system of discipline, and by placing their means of defence against a foreign enemy more conveniently and effectually at the disposal of the Government that it might in time by the gradual operation of the natural consequences of such an union make the whole colony more completely British in their system of laws, in their education, in their feeling and in the general temper of all their public acts—that it would produce an uniform regulation of trade throughout the territory, and insure the interest of every part being made subservient to the welfare of the whole, and that it would necessarily put an end to all future difficulties about

[1] Brymner, op. cit., pp. 41–43. *John Beverley Robinson* had been appointed Attorney-General of Upper Canada in 1818. He represented York (Toronto) in the Assembly from 1821 to 1829, and was recognized as leader of the Government party. He was sent to London to state the Upper Canadian case on union in March 1822 and was in fact given the task of drafting the proposed Bill.

duties and drawbacks by sharing among all the enjoyment of that in which they have all an interest, are general advantages, which, though some of them are rather indefinite as to the extent and uncertain as to the period in which they might be felt, might I think be rationally expected.

On the other hand I am doubtful of the prudence of disturbing the present system of things in the prospect of these rather indefinite and distant advantages, and at the hazard of the inconveniences which have suggested themselves to me and which I will shortly state.

At present things are proceeding pleasantly and prosperously in Upper Canada. In Lower Canada they are not, but I do not think an union would remove in the least the difficulties existing there and it might have the bad effect of involving the one province in the troubles of the other.

The number of representatives in Upper Canada is at present less than in the Lower Province, and would no doubt continue so for many years. The latter consists, with very few exceptions, of Canadian French, and I am apprehensive that an union of the two provinces would be regarded with such extreme jealousy and repugnance by the great body of the people in Lower Canada, that on future occasions they would even more studiously endeavour to exclude Englishmen from their Assembly, and confine their confidence to those who would sedulously guard their old system of things from innovation, and for many years I fear the people of Upper Canada would find it difficult to obtain any appropriation of revenue to purposes of public improvement within their province or to gain sufficient attention in their local interests from an Assembly of whom the greater number would be unfriendly to their religion and unacquainted with their laws and jealous of their influence. If these consequences should follow they would retard the now rapidly increasing prosperity of Upper Canada at the most critical moment. Perhaps the apprehension is groundless, I state merely my own impression. Upper Canada, it is true, contains at present much less population than the Lower Province, the one having been first settled by Europeans only forty years ago, and the other more than two hundred; but it is well known that in extent of land capable of cultivation, in the excellence of its soil and climate, and consequent capability of production, the former possesses almost unrivalled advantages, and it would be much to be lamented that these should be prevented from developing themselves, by being placed under the control of persons little acquainted with our agricultural interest, and even averse to the system of tenures and of laws under which the province has so surprisingly flourished. . . .

It perhaps deserves also to be considered how far it is politic upon national grounds to unite two colonies now distinct, thereby involving on all occasions the politics of one with those of the other, giving to them the means of making common cause in any unfortunate

dissension which might arise, and rendering any disagreement a cause of irritation and of difficulty in two Governments, whereas otherwise it might but affect the tranquillity of one. . . .

I cannot even pretend to say how far an union would be agreeable to the people of Upper Canada generally. I have reason to think the majority of their present representatives are unfavourable to it, from a conviction that it would not be beneficial, though some of that body, for whose opinion I have much respect, think otherwise. I will take the liberty of remarking further that the Act by which the province of Quebec was divided and the present separate Government established, was the result of great and long deliberation, and if the change of system so matured should prove disagreeable to the inhabitants of both or either of the provinces, it may be expected that they will feel more deeply in proportion as it shall appear to have been hastily decided on, and without an opportunity having been afforded them of making known their sentiments. The people of Canada have been ever treated by Great Britain with a mildness and degree of parental indulgence that would make them the more sensible to any apparent want of consideration even of their feelings. Another matter occurs to me upon which it is necessary to guard against any erroneous impression. The French inhabitants of Lower Canada, I am firmly persuaded, are as peaceably disposed, as much inclined to submit to authority, and as loyally attached to the British Government, as any portion of His Majesty's subjects, and whatever trouble their representatives may give by refusing to make a permanent provision for the civil list, or upon questions of revenue, or of any kind between themselves and the Executive Government is not to be ascribed to the preponderance of French influence over the English, but to that desire which is found in all Assemblies to assert to the utmost the share of power which they think the constitution gives them, a disposition which I think the descendants of English, Irish and Scotch will be found as likely to persevere in, as the descendants of Frenchmen. It is not my desire, by anything I have said, to lead to a conclusion that the Legislatures should not be united, unless that inference shall appear to be the sound deduction from the consideration I have stated. I have set down what presented itself on both sides, anxious only that the decision may be made on sure grounds, and not formed upon erroneous conceptions or expectations which are not likely to be fulfilled.

20

LOWER CANADA: PETITION FROM CITIZENS OF MONTREAL TO GEORGE IV, December 1822[1]

The Petition of the subscribers, Your Majesty's dutiful and loyal subjects of British birth or descent, inhabitants of the city and county of Montreal in the province of Lower Canada: MOST HUMBLY SHEWETH:

That Your Majesty's petitioners learnt with the most lively satisfaction that the measure of uniting the provinces of Upper and Lower Canada under one Legislature had been submitted to the consideration of the Imperial Parliament in its last session, and have been impressed with the sentiments of the most respectful gratitude for the attention which has been bestowed on this measure of vital importance to both provinces.

Under the agreeable anticipation that the evident policy and urgent necessity of a union of the provinces will induce a renewal of the measure in the next session, Your Majesty's petitioners most respectfully beg leave to submit the principal considerations that render them in the highest degree anxious for the adoption of the proposed union.

Your Majesty's petitioners in all humility represent that the division of the late province of Quebec into two provinces must be referred to as a measure which has been most prolific of evil. At the time the division took place upwards of thirty years had elapsed from the conquest of the country by Your Majesty's arms; and notwithstanding the unlimited generosity which has been displayed towards the conquered, by confirming to them their laws and religion, by admitting them to a participation in the Government and in all the rights of British subjects, and by continued demonstrations of kindness towards them, no advances had been made in effecting a change in the principles, language, habits and manners, which characterize them as a foreign people. Such change, as well from past experience as from the known operation of the feelings common to mankind, could not be expected while the conquered people were permitted exclusively to regulate their own government, and thus cherish and maintain the national peculiarities, which it was equally the interest of the parent state and of the colony should be gradually effaced by an intimate union with their fellow subjects of British origin. On this account it seemed evidently necessary in framing a new constitution of government that the representation should be so regulated as to ensure a fit and reasonable influence of British feeling and principles on the conduct of the colonial Legislature. The measures for this purpose were at the time facilitated by the increase of the British

[1] Brymner, op. cit., pp. 32–36.

population which had taken place, and by the settlements which had been formed by American Loyalists in the upper districts of the late province of Quebec; in consequence of which a sufficiently numerous body of persons of British origin might, under a proper system of representation, have been introduced into the colonial Legislature without offending against any principle of justice, and certainly in strict conformity with the dictates of sound policy. Had this course, which was anticipated at the time by the French Canadian population and would then have been cheerfully acquiesced in by them, been pursued, Your Majesty's petitioners are confident that the province would now have been, in all essential particulars, an English province. Unfortunately Your Majesty's petitioners, in common with their fellow subjects of British origin, have to lament, that instead of adopting the policy which has been mentioned, the measure of dividing the province was unexpectedly, and to the utter surprise of the persons who had petitioned for a change in the constitution, without imagining that it was to be accompanied by any such measure, resolved on; by which the English population in Lower Canada was rendered inefficient from the comparative smallness of their numbers, and the whole power of the representative branch of the Government was given to the French Canadians. It is a fact also, not unimportant to be stated, that both the British and foreign Canadian subjects, who had united in a joint petition to the Imperial Parliament, praying for a change in the Government, concurred through their agent, in petitioning, and were heard by Counsel, against the division of the province; but their efforts were unavailing.

It is from this impolitic measure Your Majesty's petitioners state with confidence that the political evils under which Lower Canada has since laboured have principally resulted as their primary cause. The French-Canadian population for a short period of time after the adoption of the present constitution, partly from incapacity to exercise the political powers with which they had become invested, and partly from some remaining deference for their English fellow subjects, used their ascendancy with moderation; but this disposition was not of long continuance, and soon yielded to the inveterate anti-British and anti-commercial prejudices, by which they have not ceased to be actuated. The consequence has been that persons of British origin, with the exception of a very small number, who have been elected rather for the sake of appearances than from any regard for their qualifications, have been excluded from the House of Assembly. The proportion of English representatives for many years past has hardly ever amounted to one fourth of the entire number; and at the present time, of fifty members who represent Lower Canada only ten are English. This branch of the Government may indeed be said to be exclusively in the possession of the uneducated peasantry of the country, under the management and control of a few

of their countrymen, whose personal importance, in opposition to the interest of the country at large, depends on the continuance of the present vicious system. As illustrative of the spirit by which this body has been actuated, it will not be deemed irrelevant to mention that, since the establishment of the present constitution, no person of British origin has been elected Speaker of the Assembly, although if regard had been had to ability, knowledge and other qualifications, a preference must have been given to persons of that description. . . .

[The petitioners criticize the Legislature for its 'marked repugnance to every measure calculated to assimilate the inhabitants of the country with their fellow subjects in other parts of the Empire', to promote its commercial prosperity and to restrict emigration and settlement. They express fears of the province remaining in all particulars 'for ever French'; the French population is increasing: so too is the legend of a 'Nation Canadienne', 'implying pretensions not more irreconcilable with the rights of their fellow subjects than with a just subordination to the parent state'.]

It is a consequence of the relative geographical situation of the provinces that Upper Canada is entirely dependent on Lower Canada for the means of communicating with the parent state and other countries; it is only through Lower Canada that the Upper Province can receive its supplies or export its surplus commodities. The port of Quebec is the entrance common to both. This being situated in Lower Canada the inhabitants of Upper Canada can have neither free ingress into nor egress from their country, except in so far as it may be permitted by the Government of Lower Canada. This Your Majesty's petitioners humbly represent is a cause for the union of the provinces perpetual in its operation, and which cannot be counteracted without a long series of inconveniences and disasters to both. If while it may still be done, the population of the two provinces be not gradually assimilated and identified in their interests by a union, the differences between them from the causes now in operation and the collisions to which they will give rise, must have the effect of rendering the inhabitants of each a separate and distinct people, with the most hostile feelings towards each other, requiring only a fit occasion to urge them into measures of actual violence. In the progress of things towards this conclusion, the inhabitants of Upper Canada would imperceptibly be induced to form connections with their American neighbours and being unnaturally disjoined from Lower Canada, would seek to diminish the inconveniences arising by a more intimate intercourse with the adjoining states, leading inevitably to a union with that country. The actual tendency of things to this result, while the provinces continue under separate legislators, it is to be observed, is likely to be much promoted by the artificial means of communication by canals, which have been lately formed at immense expense in the State of New York, affording to Upper Canada, if the outlet at the port of Quebec should be rendered inconvenient to her, an easy communication to American seaports; and

her disposition to avail herself of this communication will obviously be increased while the Lower Province continues in its character to be French.

Some of the circumstances arising from the division of countries, thus united by nature, Your Majesty's petitioners beg leave to represent, have been practically exhibited in the disputes respecting revenue between the two provinces. Upper Canada relies on the revenue to be derived from import duties for the payment of her civil expenditure. The nature of her local situation precludes her from conveniently or effectually levying these duties within her own limits: it is at the port of Quebec only that she can levy them:—but this is in another province, and, while she has a separate Legislature, beyond the authority of her Government. The consequence has been that, till the recent interposition of the power of the Imperial Parliament, she has been dependent on the good will of the Legislature of Lower Canada for a proportion of the duties levied at the port of Quebec, and has been virtually subject to taxation by the Legislature of another province, without her concurrence or consent. . . .

In adverting to the injurious consequences arising from the division of the late province of Quebec, Your Majesty's petitioners cannot omit to notice more particularly the effect that measure has had in preventing the increase of the British population in Lower Canada, and the development of its resources. The preponderance of the French population in the Legislature has occasioned obstacles to the settlement of British emigrants that have not been surmounted; so that the vast increase of British population to have been expected from this cause has been, in a general degree, prevented. The injury sustained in this particular may be easily appreciated when it is observed that, since the late American War, upwards of eighty thousand souls (that is a number equal to one-fourth of the actual French population) have found their way to this province, from Great Britain and Ireland, and of these scarcely one-twentieth part remains within its limits, the rest, with the exception of a small number who have settled in Upper Canada having been induced by the foreign character of the country in which they had sought an asylum, and the discouragements they experienced, to try their fortunes in the United States. The loss thus sustained is not confined to those who left the country, but comprises their connections and friends who would have followed them. In the same proportion as the increase of British population has been prevented, has the agricultural and commercial prosperity of the count[r]y been retarded and obstructed; as it is to the enterprise, intelligence and persevering industry of that population that both agriculture and commerce must be principally indebted for their advancement. On this head it may be fairly advanced that, had not the impolitic division of the late province of Quebec taken place, and had a fit plan of representation been adopted, the British population

would now exceed the French, and the imports and exports of the country be greatly beyond their present amount.

The injury thus produced to the interests of the mother country and those of the colony, by the French character which now belongs to this country, and the predominance of French principles, Your Majesty's petitioners humbly represent, without a union of the provinces, must be aggravated by the augmented influence of those causes arising even from a recent act of liberality on the part of the mother country towards her colonies. According to the colonial system recently adopted, a direct intercourse between Lower Canada and France is now permitted; the immediate effects of which will unquestionably be to give increased strength of [*sic*] these national prejudices which during sixty years of interdicted communication with France have remained unabated, and to render more inveterate the causes of disunion between Your Majesty's subjects in Lower Canada; which effects, as well as others more remote, affecting the stability of Your Majesty's Government, can only be counteracted by the proposed union of the provinces under one Legislature. . . .

21

LOWER CANADA: LOUIS PAPINEAU [AND OTHERS] TO R. J. WILMOT

16 December 1822[1]

Montreal.

SIR,

You may have been informed that the strongest and most declared opposition to the union of the Legislatures of Lower and Upper Canada, lately proposed in the Imperial Parliament, has been manifested throughout this province and Upper Canada. . . .

The Committee does not deem it necessary to enter into a detail of facts, which would sufficiently characterize the motives of the friends of the projected Bill, but merely wishes to dispel the odious aspersions on the great body of the people in this province, contained in several communications intended for England. Such as, assertions that the opposition manifested in this province on the part of the population so stigmatized is the effect of prejudices alone, alluding to their sup-

[1] A. G. Doughty and N. Story, *Constitutional Documents . . . 1819–1828*, Ottawa 1935, pp. 144–6. A Committee had been appointed at a general meeting of the district of Montreal to correct the impression given to the House of Commons that union was a universal desire of Canadians. *Louis Joseph Papineau*, 'tribune of the French Canadians', was President of this Committee. He had been Speaker of the Lower Canadian Assembly since January 1815, and with John Neilson had been to London earlier in 1822 to make representations against the union. *R. J. Wilmot* (later Wilmot Horton) had become Parliamentary Under-Secretary to Lord Bathurst in 1821.

posed attachment to France and to French principles; calling them foreigners (foreigners in their native land!). The Bill in question, say these friends of the union, being so well calculated to Anglify the country, which is to be ultimately peopled by a British race. . . .

The preposterous calumny against the Canadians of French origin, as to their supposed attachment to France, requires no other answer than what is derived from their uniform conduct during the wars, and the loyalty evinced by them on every occasion. They are not foreigners in this the land of their birth; they claim rights as British subjects, in common with every other subject of His Majesty in these colonies. These are their birth rights. And yet it was expected by the projectors of the Union Bill to deprive them of these rights, which were so solemnly secured to them by the Act of the 31st of His late Majesty, after the elaborate discussions that then took place, and in conformity with the just and liberal views of the most enlightened politicians of those days.

By what they call Anglifying the country is meant the depriving the great majority of the people in this province of all that is dear to men; their laws, usages, institutions and religion. An insignificant minority wish for a change, and are desirous of ruling against every principle of justice by destroying what they call the Canadian influence, that is to say, the influence of the majority; of men entitled in the same rights as themselves, of the great mass of the natives: this eagerness to domineer has produced their present exertions, to obtain by unjust means that which they should not and cannot reasonably expect if the matter be correctly understood. For it might be asked what right should that minority expect to have which would be subversive of the equal protection due to all His Majesty's subjects, as well in colonies as everywhere else? Has Great Britain ever entertained any such policy towards its colonies? Is it just or reasonable, or even sound policy, that she should on this occasion wound the feelings of a loyal population for the purpose of satisfying the prejudices of a few?—Great Britain wants no other Anglifying in this colony than that which is to be found in the loyalty and affection of its inhabitants, no other British race than that of natural born subjects, loyal and affectionate. Such are the inhabitants of both provinces; and it is the humble expectation of the Canadians that on this occasion, so momentous to them, their interests will be advocated by every liberal mind, as it is their belief and confidence that they will continue to enjoy the benefits of that constitution to which they manifest so strong an attachment, and which they consider as the safeguard of their rights and liberties. . . .

22

CANADA: LORD BATHURST TO LORD DALHOUSIE, 13 January 1823[1]

. . . The projected measure of the union of the provinces of Upper and Lower Canada was submitted by His Majesty's Government to the House of Commons in the last session of Parliament,[2] in consequence of a distinct impression (the origin of which it is not necessary for me here to explain) that it would have met with an almost unanimous concurrence in that House;—I have however now to communicate to you that His Majesty's Covernment have decided to relinquish for the present the reintroduction of that measure, of the policy and propriety of which, in the abstract, they still retain their original opinion, but which has been rendered inexpedient by the failure of that support, which they were justified in expecting, and by the train of circumstances which has resulted therefrom. It was the distinct anticipation of that support which alone induced His Majesty's Government to bring it forward at the time, and under the circumstances of its introduction, and to connect it with other measures which it was of paramount importance to pass without delay.

The course of the opposition which was offered to this measure was necessarily destructive of that effect of unanimity in Parliament, which could not have failed to reconcile even the prejudices of the Canadian population to any measure passed under so unequivocal a sanction and which would at once have allayed any retrospective feeling of dissatisfaction, and have prevented the irritation which has been so strongly excited in those dependencies of the Empire whose individual interests and advantages had been specifically consulted in the measure itself. . . .

[1] C.O. 43/25, pp. 71–73. Printed in Doughty and Story, op. cit., pp. 146–7. Lieut.-General George Ramsay, ninth *Earl of Dalhousie*, was Lieut.-Governor of Nova Scotia for three years before being appointed Governor-in-Chief of British North America in 1819, when Sherbrooke retired ill.

[2] The clauses that related to a legislative union were brought in as a separate Bill. The Canada Trade Act (which regulated the duties between the two provinces and the apportionment of the customs) was passed in August 1822 (3 Geo. IV, cap. 119).

23

CANADA: REPORT FROM THE SELECT COMMITTEE OF THE HOUSE OF COMMONS APPOINTED TO INQUIRE INTO THE STATE OF THE CIVIL GOVERNMENT, 22 July 1828[1]

THE SELECT COMMITTEE *appointed to inquire into the state of the civil government of Canada, as established by the Act 31 Geo. III and to report their observations thereupon to the House; and to whom several petitions for an alteration in the present government were referred, and agreed to the following report:*

. . . The Committee cannot too strongly express their opinion, that the Canadians of French extraction should in no degree be disturbed in the peaceful enjoyment of their religion, laws and privileges, as secured to them by the British Acts of Parliament; and so far from requiring them to hold lands on the British tenure, they think that when the lands in the seigneuries are fully occupied, if the descendants of the original settlers shall still retain their preference to the tenure of *Fief et Seigneurie*, they see no objection to other portions of unoccupied lands in that province being granted to them on that tenure, provided that such lands are apart from, and not intermixed with, the townships. . . .

Your Committee, while recommending such a concession on the part of the Crown, are strongly impressed with the advantage of rendering the Governor, the members of the Executive Council, and the Judges, independent of the annual votes of the House of Assembly for their respective salaries.

Your Committee are fully aware of the objections in principle which may be fairly raised against the practice of voting permanent salaries to Judges, who are removable at the pleasure of the Crown; but being convinced that it would be inexpedient that the Crown should be deprived of that power of removal, and having well considered the public inconvenience which might result from their being left in dependence upon an annual vote of the Assembly, they have decided to make the recommendation, in their instance, of a permanent vote of salary.

[1] *Parl. Papers*, 1828 (569), vol. vii, pp. 379–87. This Committee was appointed on a motion of Huskisson (*Hansard*, vol. xix, 300–16) who had been impressed by certain representations from Lower Canada. This Report became the platform for Lower Canadian reformers in the following decade. It is significant too as an indication that a Parliamentary Committee, while questioning the manner and spirit of administering the 1791 constitution and considering methods of conciliation, affirm their faith in the structure of the 1791 Act itself. The idea of responsible government had already been mooted both in Canada and in Britain by a few individual thinkers (see, for example, *Canadian Historical Review*, xxxi, pp. 288–96) and even by James Stephen the younger, but it was to remain for some years in the realm of theoretical speculation. Not till the publication of Lord Durham's Report in 1839 did it become a practical political issue.

Although your Committee are aware that the grant of permanent salaries has been recommended to a much greater number of persons connected with the Executive Government than they have included in their recommendation, they have no hesitation in expressing their opinion that it is unnecessary to include so large a number; and if the officers above enumerated are placed on the footing recommended, they are of opinion that all the revenues of the province, (except territorial and hereditary revenues,) should be placed under the control and direction of the Legislative Assembly.

Your Committee cannot close their observations on this branch of their inquiry without calling the attention of the House to the important circumstance, that in the progress of these disputes the local Government has thought it necessary, through a long series of years, to have recourse to a measure, (which nothing but the most extreme necessity could justify,) of annually appropriating, by its own authority, large sums of the money of the province, amounting to no less a sum than £140,000, without the consent of the representatives of the people, under whose control the appropriation of these sums is placed by the constitution.

Your Committee cannot but express their deep regret that such a state of things should have been allowed to exist for so many years in a British colony, without any communication or reference having been made to Parliament on the subject. . . .

One of the most important subjects to which their inquiries have been directed has been the state of the Legislative Councils in both the Canadas, and the manner in which these Assemblies have answered the purposes for which they were instituted. Your Committee strongly recommend that a more independent character should be given to these bodies; that the majority of their members should not consist of persons holding offices at the pleasure of the Crown; and that any other measures that may tend to connect more intimately this branch of the constitution with the interest of the colonies would be attended with the greatest advantage. With respect to the Judges, with the exception only of the Chief Justice, whose presence on particular occasions might be necessary, your Committee entertain no doubt that they had better not be involved in the political business of the House. Upon similar grounds it appears to your Committee that it is not desirable that Judges should hold seats in the Executive Council.

Your Committee are desirous of recording the principle which, in their judgment should be applied to any alterations in the constitution of the Canadas, which were imparted to them under the formal Act of the British Legislature of 1791. That principle is to limit the alterations which it may be desirable to make by any future British Act, as far as possible, to such points as, from the relation between the mother country and the Canadas, can only be disposed of by the paramount authority of the British Legislature; and they are of opinion that all

other changes should, if possible, be carried into effect by the local Legislatures themselves, in amicable communication with the local Government.

Upon the great question of the union of the two Canadas your Committee have received much evidence, to which they desire to call the attention of the House. With reference to the state of public feeling that appears to prevail in these colonies on this momentous subject, your Committee are not prepared, under present circumstances, to recommend that measure.

Your Committee nevertheless think it highly desirable that some satisfactory arrangement, (and if possible one of a permanent nature,) should be effected between the two Canadas with regard to the imposition and distribution of the customs collected in the St. Lawrence. They trust, however, when the heats which so unfortunately exist shall have subsided, that such an arrangement may be amicably effected.

It now remains for us to lay before the House the result of our inquiries into the clergy reserves, which appear, by the statements of the petitioners from Upper Canada, to be the cause of much anxiety and dissatisfaction in that province. By the Act of 1791 the Governor is directed to make, from and out of the lands of the Crown within such provinces such allotment and appropriation of lands for the support and maintenance of a Protestant clergy within the same, as may bear a due proportion to the amount of such lands within the same, as have at any time been granted by or under any authority of His Majesty. And it is further provided, that such lands so allotted and appropriated shall be, as nearly as the circumstances and nature of the case will admit, of the like quality as the lands in respect of which the same are so allotted and appropriated; and shall be, as nearly as the same may be estimated at the time of making such grant, equal in value to the seventh part of the lands so granted.

The directions thus given have been strictly carried into effect, and the result is, that the separate portions of land which have been thus reserved are scattered over the whole of the districts already granted.

It was no doubt expected by the framers of this Act that, as the other six parts of the land granted were improved and cultivated, the reserved part would produce a rent, and that out of the profits thus realized an ample fund might be established for the maintenance of a Protestant clergy. These anticipations, however, have not as yet been, and do not appear likely to be, soon realized. Judging indeed, by all the information the Committee could obtain on this subject, they entertain no doubt that these reserved lands, as they are at present distributed over the country, retard more than any other circumstance the improvement of the colony, lying as they do in detached portions in each township, and intervening between the occupations of actual settlers, who have no means of cutting roads through the woods and

morasses which thus separate them from their neighbours. The allotment of those portions of reserved wilderness has, in fact, done much more to diminish the value of the six parts granted to these settlers, than the improvement of their allotments has done to increase the value of the reserve. This we think must be apparent from the results of the attempts which have been made to dispose of these lands. . . .

As your Committee entertain no doubt that the reservation of these lands in mortmain is a serious obstacle to the improvement of the colony, they think every proper exertion should be made to place them in the hands of persons who will perform upon them the duties of settlement, and bring them gradually into cultivation.

That their value, whatever it may be, must be applied to the maintenance of a Protestant clergy, there can be no doubt. And your Committee regret that there is no prospect, as far as a present and succeeding generation is concerned, of their produce being sufficient for that object, in a country where wholly unimproved land is granted in fee for almost nothing to persons willing to settle on it. It is hardly to be expected that, with the exception of some favoured allotments, responsible tenants will be found who will hold on lease, or that purchasers of such land will be found at more than a nominal price.

Your Committee, however, are happy to find that the principle of the progressive sale of these lands has already been sanctioned by an Act of the British Parliament. They cannot avoid recommending in the strongest manner the propriety of securing for the future any provision which may be deemed necessary for the religious wants of the community in those provinces, by other means than by a reservation of one-seventh of the land, according to the enactment of the Act of 1791. They would also observe that equal objections exist to the reservation of that seventh, which in practice appears to be reserved for the benefit of the Crown; and doubtless the time must arrive when these reserved lands will have acquired a considerable value from the circumstance of their being surrounded by settled districts, but that value will have been acquired at the expense of the real interest of this province, and will operate to retard that course of general improvement which is the true source of national wealth. Your Committee are of opinion, therefore, that it may be well for the Government to consider whether these lands cannot be permanently alienated, subject to some fixed moderate reserved payment, (either in money or in grain, as may be demanded,) to arise after the first 10 or 15 years of occupation. They are not prepared to do more than offer this suggestion, which appears to them to be worthy of more careful investigation than it is in their power to give to it; but in this or in some such mode they are fully persuaded the lands thus reserved ought without delay to be permanently disposed of.

To a property at once so large and so unproductive, it appears that there are numerous claimants.

The Act of 1791 directs that the profits arising from this source shall be applied to a Protestant clergy; doubts have arisen whether the Act requires the Government to confine them to the use of the Church of England only, or to allow the Church of Scotland to participate in them. The law officers of the Crown have given an opinion in favour of the rights of the Church of Scotland to such participation, in which your Committee entirely concur; but the question has also been raised, whether the clergy of every denomination of Christians, except Roman Catholics, may not be included; it is not for your Committee to express an opinion on the exact meaning which the words of the Act legally convey. They entertain no doubt, however, that the intention of those persons who brought forward the measure in Parliament was to endow with parsonage houses and glebe lands the clergy of the Church of England, at the discretion of the local Government; but with respect to the distribution of the proceeds of the reserved lands generally, they are of opinion that they sought to reserve to the Government the right to apply the money, if they so thought fit, to any Protestant clergy. . . .

Your Committee lament that the late period of the session in which they were appointed has rendered a minute investigation into all parts of the subject submitted to their inquiry impossible. They believe, too, that if the Legislative Assemblies, and the Executive Government of Canada, can be put on a right footing, that means will be found within the province of remedying all minor grievances. They are disposed nevertheless to recommend that the prayer of the Lower Canadians for permission to appoint an agent in the same manner as agents are appointed by other colonies which possess local legislatures, should be granted, and that a similar privilege should be extended to Upper Canada, if that colony should desire it.

At an early period of their investigation, your Committee perceived that their attention must be directed to two distinct branches of inquiry:—1st. To what degree the embarrassments and discontents which have long prevailed in the Canadas, had arisen from defects in the system of laws and the constitutions established in these colonies. —2d. How far those evils were to be attributed to the manner in which the existing system has been administered.

Your Committee have clearly expressed their opinion that serious defects were to be found in that system, and have ventured to suggest several alterations that have appeared to them to be necessary or convenient. They also fully admit that from these, as well as from other circumstances, the task of Government in these colonies, (and especially in the Lower Province,) has not been an easy one; but they feel it their duty to express their opinion that it is to the second of the causes alluded to that these embarrassments and discontents are in a great measure to be traced. They are most anxious to record their complete conviction that neither the suggestions they have presumed

to make, nor any other improvements in the laws and constitutions of the Canadas, will be attended with the desired effect, unless an impartial, conciliatory and constitutional system of government be observed in these loyal and important colonies. . . .

24

PRINCE EDWARD ISLAND: S. W. G. ARCHIBALD, C.J., TO SIR JAMES KEMPT, 12 May 1828[1]

Halifax.

. . . When we consider our colonial legislatures we must admit that they are widely different in their constitution from the Parliament of Great Britain, and that they require to be moulded by men of good understanding and honest intentions to suit the local circumstances of the country or otherwise they will produce little else than vexation and annoyance. In the House of Commons no petition for any sum of money is received unless recommended by the Crown and thereby this constitutional principle is acknowledged, that while it is the sole right of the Commons to grant the public money, those grants are for services pointed out by the Crown; but your Excellency well knows that in the colonial assemblies the case is different and that with few exceptions all grants of money originate with members of the Lower House without any recommendation whatever. The necessity, therefore, of the Council as an intermediate branch of the legislature in all money matters, as well as in other bills, is most obvious, and as they are a more permanent body than the Assembly, it is peculiarly their duty to guard against any appropriations, however desirable, which might exceed the disposable means of the colony and thereby lead to public embarrassments.

The legislatures of this province and New Brunswick early discovered that the only way of adjusting the public affairs of the country was for the House of Assembly to submit in separate resolutions for the consideration of the Council every separate sum and service and in cases where they could not agree upon the particular service under consideration, the money was applied to some other beneficial purpose agreed upon by them; thus each service is separately discussed without endangering the passage of a bill containing all the general services of the country. Thus have these provinces proceeded in their appropriations of large sums of money from year to year and whenever

[1] C.O. 217/148, pp. 217–21, enclosed in Kempt to Hay 14 May 1828. *S. W. G. Archibald* was Chief Justice of Prince Edward Island (1824–8) and later Attorney-General of Nova Scotia. He remained an adroit and resourceful Speaker of the Nova Scotia Assembly and Solicitor-General during the full time of his tenure of the Chief Justiceship. *Sir James Kempt* had fought in the Peninsular War. He was Governor of Nova Scotia from 1820 to 1828 and administrator of Canada from 1828 to 1830.

they depart from this course to follow that which the Assembly of Prince Edward Island wish to pursue, I do not hesitate to say then will end our prosperity and improvement and our Assembly will be anything but a comfort to the country.

It is not to be doubted that the House of Assembly have the right of originating money bills and that the Council ought not to amend them and this is and always has been claimed and admitted in our practice, but the right of the Council to consider them and reject them unless they agree in principle with the House must be also admitted, or they are rendered useless in the most important concerns of the colony. The province therefore which rests more upon matters of strict right than upon considerations of convenience will make slow progress in improvement.

I was desirous that Prince Edward Island should profit by the experience of these provinces and that as it was included in the same commission and governed by the same general instructions, their practice should be conformable to ours in this particular, for there has been no prevailing practice in that colony which I could trace nor have I been enabled to discover in the Journals of either House much beyond a continued history of quarrels and contentions between the different branches of the legislature and individuals in office. The House, however, resisted the course proposed, and upon our appeal to the Secretary of State for the Colonies, the Right Honourable Mr. Huskisson decided the matter of right as it must be conceded by us, and of which in the abstract there can be no doubt. . . .

25

NOVA SCOTIA: SPEECH BY ALEXANDER STEWART, INTRODUCING RESOLUTIONS FOR THE RELINQUISHMENT OF QUIT RENTS, 18 February 1828[1]

. . . Early last year the Lieutenant Governor of the province announced to the public that His Majesty's Government had instructed him to enforce the collection of the quit rents in this colony, and by the papers on the table it would appear that their annual amount was estimated (exclusively of Cape Breton) at £4,300. If to this sum were added about £700, the whole sum, which by official calculation is estimated to be forthcoming from those rents, would be £5,000 sterling. That a revenue of this amount should be collected from the people of this province, and disposed of without the control of its Legislature, is a subject of deep and commanding interest, and

[1] Printed in *The Novascotian*, 28 February 1828, p. 72. *Alexander Stewart*, an able barrister and, from his first entry into the Assembly of Nova Scotia in 1826, a prominent reformer, was opposing the revival of an obsolescent claim of the Crown to quit rents. For Stewart, see *Coll. Nova Scotia Hist. Soc.*, vol. xv, pp. 1–114.

one that demands from the representatives of the people their most serious consideration. And I can assure this House, that from the first moment the regulations I have mentioned were promulgated, I have given them my most deliberate and anxious consideration. It is not unnatural, therefore, that my mind should have been turned to the probable object of His Majesty's Government in adopting them, the effect of the measure upon us, and the best means of avoiding the evil consequences which would, from the collection of those rents, inevitably ensue to the inhabitants of Nova Scotia. Now, Sir, it is matter of public notoriety, that of late years it has become the custom in the Parliament of the Mother Country, to represent this and the North American colonies as mere incumbrances upon the people of Great Britain. Ministers have been again and again asked by Mr. Hume and others, why do not these colonies pay their own civil list? why is it that Nova Scotia shall be an annual Parliamentary charge of £11,000, when she is well able to defray all the necessary expenses of her civil government. . . . Let me not, however, be misunderstood; I trust I do not undervalue the blessings we enjoy, under the obligations which have been heaped upon us by the maternal government. But when it is told to the world by such men as Mr. Hume that we cost annually, for our maintenance, a much greater sum than in truth we do, it is fit that we should take credit for what is really due to us. However, goaded by these representations, Ministers have, there cannot be any doubt, turned their attention to the practicability of deriving a revenue from the colonies, and they have resorted to the obsolete claim for His Majesty's quit rents. Now, Sir, if we have really arrived at such maturity as to be able to pay the whole of our civil list, (and it will be remembered that we pay a great part of it already, while the adjoining colony contributes little or nothing towards her's [*sic*]) let His Majesty's representative, in the good old way of our fathers, ask it from this House, and as Nova Scotians never have been, so I trust they never will be found deficient in liberality or gratitude. The people of this province will cheerfully contribute their last farthing, and spend their blood in the defence and support of the land of their fathers. But I confess, Sir, I am anxious that no revenue should be derived from the people of this province, except that which shall be under the control of this House. I utterly dislike a casual revenue, in other words one that is to be at the absolute disposal of His Majesty, or His representative here. Much as I respect the distinguished personage who presides over us with so much credit to himself, and so much benefit to the province, he will not be here forever, and if he were, yet I feel that the control of the representatives of the people over the people's money is essential to the welfare of the State. Depend upon it, Sir, if the day shall ever arrive, when the casual revenue shall amount to a sufficient sum to defray the expenditure of the Government, a seat in this House will be of little

value. You may form a part of the pageantry of the day on which the Legislature assembles, but your utility, your dignity, and your respectability are gone. But if such would be the effect of the accumulation of an independent revenue upon our political freedom, the ruinous results to individuals would be scarcely less deplorable. If the collection of the quit rents would be to introduce among the people a species of direct taxation, and that too in its most obnoxious form, it would extend to every man in the colony, poor and rich, would send the tax-gatherers into the heart of the wilderness. Sir, small as the sums may appear, there are many poor men who are unable to pay them. The money is not in the country; and in what manner could it be collected? The numerous transfers of land, the scarcity of specie, and various other local difficulties, will create great uneasiness and distress among them. Sir, at the commencement of the Session, His Excellency truly told us of the excellent feeling and loyalty which pervaded all classes of His Majesty's subjects in this province, but folly never contrived, absurdity never coined a more exquisite scheme to eradicate those feelings, and to substitute discontent, and alarm, and distress, in their stead, than this which Mr. Wilmot Horton has contrived for the better government of the colonies. But it will be, perhaps, necessary for me here to explain that I do not mean for a moment to deny the strict right of the Crown to those rents. But a right which has been suffered to remain dormant since the year 1722 [*sic*], for since that year, if I am rightly informed, the quit rents (except on the issuing of grants) have never been demanded, it appears to me is very much weakened. When in the year 1811 the Assembly of Nova Scotia petitioned His Majesty to suspend their collection, His Majesty was pleased to offer them to the people of this province, upon condition that the Legislature should pay the expense of maintaining the clergy of the Church of England. Sir, that was a boon which upon such a condition the Assembly of that day refused to accept, and I trust this House and all future Assemblies would follow their example in this particular; but although the Assembly declined the proffered favour, the quit rents have never been, until the late injudicious regulations, asked from His Majesty's subjects. Lands have been improved, transfers have been made, without any thought of paying the quit rents. The case is not that of landlord and tenant. It is not of the private patrimony of the Crown which we are speaking. More than half a century has elapsed since those rents have been demanded. By the law of England, 60 years possession will give a good title even to a man who, in the first instance, wrongfully takes possession. Still, Sir, I do not deny the strict right, I am only anxious that the people of Nova Scotia should not be subjected to a measure, which would be in the nature of a direct tax, to which the Legislature of Nova Scotia has scarcely if ever resorted, and to which, therefore, our people are unaccustomed.

Now, as to the proper mode to be adopted, I propose that this House address His Majesty, humbly praying that He will be graciously pleased to grant the quit rents to the inhabitants of the province, as an act of His royal grace and favour. . . .

26

NOVA SCOTIA: RESOLUTIONS OF THE ASSEMBLY, 18 February 1828[1]

Mr. Stewart moved that the House do come to the following Resolutions, viz:

Resolved, That a Committee be appointed to prepare a humble Petition to His Majesty, praying that He will be graciously pleased to relinquish to His loyal subjects in this province, as an act of His royal grace and favour, His quit rents in this colony.

Resolved, That the same Committee prepare an Address to His Excellency the Lieutenant Governor, to request that he will be pleased to forward the said Petition to His Majesty, with His favourable recommendation of the prayer thereof; and that until an answer be given to said Petition, His Excellency will be pleased to direct the collection of the said quit rents to be suspended.[2]

27

NOVA SCOTIA: CHARLES R. FAIRBANKS TO R. W. HAY, 1 June 1830[3]

London.

SIR,

At the last interview I had the honour of attending you were pleased to allow me to refer to the subjects on which differences have long prevailed in the Colonial Legislatures between the Council and Houses of Assembly and to allude to some measures for preventing those disputes in future. . . .

[1] *Nova Scotia Assembly Journal*, 18 February 1828, p. 216.

[2] The Council were opposed to petitioning the King for the absolute relinquishment of all quit-rents, and recommended an annual grant to H.M. to redeem them; but on 12 March 1828 the Assembly petitioned the King for their complete abandonment. Sir George Murray's answer (dated 24 December 1829) offered to commute such rents for £2,000 per annum, but the Assembly on 29 March 1830 (*Ass. Journ.*, pp. 711 ff.) refused it on the ground that it would bear 'most heavily on the middling and poor classes of society', and it would be proportionately too costly to collect.

[3] C.O. 217/151, pp. 257–66. This letter accompanied the Heads of a Bill to introduce certain reforms into the British North American colonies. *C. R. Fairbanks* was an early Nova Scotia reformer. A barrister of Halifax, later Solicitor-General and Master of the Rolls, he had written a memorandum for Hay on the civil establishment of Nova Scotia in 1830. He was also agent for the Shubenacadie Canal Company. *R. W. Hay* was Permanent Under-Secretary in the Colonial Department between 1825 and 1836.

It cannot be concealed that, in respect to their Legislative and Executive Councils, sentiments, closely allied to those which have occasioned so long a controversy in Lower Canada, prevail very generally in Nova Scotia and New Brunswick and perhaps in Upper Canada. . . .

These objections to the Councils as now constituted are certainly not all equally powerful and some rather unreasonable, but from their individual or combined operation, and perhaps from other causes not necessary to be particularized, it is unquestionable that the Legislative and Executive Councils in the Northern Provinces do not command the entire respect and confidence of the people at large: and that the wish is very general to have some alterations introduced.

On this subject the report of the Canada Committee is very explicit and it has been most gratifying to hear the Right Honourable the Secretary of the Colonies [*sic*] express his full concurrence in most of the recommendations of that enlightened body. There can be no doubt that the formation of a branch of the Legislature, intermediate between the first and third, in countries where the aristocracy of birth is neither known nor regarded and where the principle of preference for personal acquirements without reference to ancestry has been adopted by the present from the aboriginal possessors of those countries, was and must be a measure of great difficulty. . . .

[The writer discusses the relevance of the many constitutional matters discussed by the Commons' Committee of 1828 for the other British colonies in North America. 'It is certain that whatever Lower Canada obtains will be sought for by her neighbours and pressed for till it is granted.' He recommends a separation of the judiciary from other Government departments and a separation of Legislative and Executive Councils as in Lower Canada.]

The constitution of the Executive Council has always presented itself to me as defective inasmuch as the popular branch and people of the colony are not represented in it and as the Upper House by furnishing the chief part of the members connects itself too closely with the executive department. Further, if in the administration of the Government of a colony the members of the Lower House see themselves totally excluded from contributing by their knowledge or talents to the movement of the Government and debarred from that avenue to influence and station which the Executive Council presents it is not to be wondered at that they should be tempted to engross to the House of Representatives more than its share of power and to render both Councils inoperative and unpopular. I do not say this is actually the case but the consequence appears a natural one. For this the remedy is to be found in applying to the colonies the same principles on which the Government is conducted at home—and by seeking in the House *some at least* of the advisers of the Executive. This course would remove many jealousies because the House would then feel itself party to and in some degree identified with the measures of the Executive. The freedom of colonial institutions has

conferred much of the real power on the popular branch—and that power will be more easily, and beneficially for the colony, exercised in concert with than in opposition to the wishes of that body.[1]

It might be advisable, I think it is highly so, to have more of the officers of Government members of the Lower House than is now customary. Such are the grounds which suggested the introduction of the Speaker and two other members into the Executive Councils. And it is conceived that when constituted according to the mode proposed these Boards, the advisers of the Governor, will more closely resemble their prototype in England and bring together for his guidance in administering the Government as much information and knowledge as can reasonably be expected. . . .

[He suggests that all seats in the Executive Council (except those of the Chief Justice and the Speaker) should consequently be held only during pleasure; that the House of Representatives should possess 'powers similar to those exercised by the House of Commons'; and that Legislative Councillors should represent districts and hold their nomination for a limited period only, as independent spokesmen and not as Government men.]

[1] The Reformers attacked the Executive Council, not only because it was not accountable to the Assembly, but because it engrossed all spheres of authority, and because it was a 'Family Compact': for example, A. Stewart, in a speech in the Assembly in February 1834, declared 'I know not if there be anywhere such a combination of power—political and pecuniary and legislative—except perhaps the borough of Cashel in Ireland where the Mayor of the Corporation was the Grand Papa, his 12 sons and sons-in-law the Aldermen, and the 24 Common Councilmen so closely connected that they could not enter into the holy bonds of matrimony with any of the Aldermen's daughters'. (*The Novascotian*, 14 February 1834: C.O. 217/156.)

III
COMMERCIAL DEVELOPMENTS
A. THE OLD COLONIAL SYSTEM AND THE PRINCIPLE OF RECIPROCITY: NORTH AMERICA AND THE WEST INDIES

1
LORD SHELBURNE TO RICHARD OSWALD
27 July 1782[1]

. . . You very well know I have never made a secret of the deep concern I feel in the separation of countries united by blood, by principles, habits, and every tie short of territorial proximity.—But you very well know that I have long since given it up *decidedly* though *reluctantly*: and the same motives which made me perhaps the last to give up all hope of re-union, make me most anxious if it is given up, that it shall be done *decidedly*, so as to avoid all future risk of enmity, and by the foundation of a new connection better adapted to the present temper and interests of both countries. In this view, I go further with Dr. Franklin perhaps than he is aware of, and farther perhaps than the professed advocates of independence are prepared to admit. My private opinion would lead me to go a great way for federal union;—but is either country ripe for it? If not, means must be left to advance it.[2] . . .

2
JOHN POWNALL TO LORD SHELBURNE
30 January 1783[3]

[In obedience to Shelburne's commands Pownall submits the following considerations.]

The Preamble or introduction to the Articles of the Provisional Agreement of the 30th of November 1782 is so expressed as to convey

[1] B.M. Add. MSS. 42,363, f. 255. *Richard Oswald*, a merchant with considerable estates in America and the West Indies, had been frequently consulted by the Government during the American War as an expert authority. He was formally commissioned by Lord Shelburne to make peace with the American colonies in July 1782. By the time the treaty was drawn up, however, Shelburne was out of office and Oswald had been replaced. (See Vincent Harlow, *The Founding of the Second British Empire*, vol. i, ch. vi.)

[2] For a further exposition of Shelburne's idea of Anglo-American interdependence, see *Parl. Hist.* xxiii, 408–11.

[3] B.M. Add. MSS. 42,394. *John Pownall*, younger brother of Thomas Pownall,

to every man's understanding in terms the most explicit that it is intended and clearly meant that there should be a reciprocal freedom of commerce in the fullest sense of the words, between the two nations, upon grounds of mutual understanding and convenience, and your Lordship will forgive me, if I presume to suppose that it must have been understood that this object could only be effected by a commercial treaty. Such treaty, however, like all others concerned with foreign States, must be made with reference to the laws of both nations respectively, and from what has been stated, your Lordship will see that the Laws of England, as they now stand, contradict not only the spirit of the provisional government in general, but also some of the express articles of it, particularly the article which implies, if not directly stipulates, the admission of the ships of the United States into the ports of His Majesty's plantations for the purpose of fishery. I am persuaded your Lordship's ideas will have greatly the start of my pen in suggesting the means of removing these obstacles to that alliance, which it is the interest of this kingdom to enter into with the United States of America.

The two great objects of consideration in forming such an alliance will be,—

1. To remove as far as may be the prohibitions, restrictions and burthens which, as the laws now stand, the subjects of the United States are liable to, as aliens, in this commerce with Great Britain and her Colonies.

2. To continue to them, in return for reciprocal concessions and benefit on their part, those advantages which have been given to sundry articles of culture and produce in the territory of those States whilst the Dominions belonged to His Majesty.

The first of these objects may I conceive be attained without any alteration of the Laws, by an act which shall exempt the subjects and ships of the United States of America from the burthens, restrictions and prohibitions laid upon the subjects and ships of other foreign states by the Laws of Trade, and authorize His Majesty, notwithstanding those Laws, to regulate, by Treaty, the commerce between the two nations upon such principles of mutual convenience and reciprocal advantages as he in his wisdom shall judge proper.

The second object (if it should be thought advisable to give the subjects of the United States the same advantages which they possessed as subjects of Great Britain) can only be attained by a revision and alteration of the Laws which give bounty and other encouragements to the produce and importations into this Kingdom of Hemp, Flax, Iron, naval stores, Rice, Indigo, Raw Silk, Pot- and Pearl-Ashes etc. . . .

Governor of Massachusetts, had been Secretary to the Board of Trade, Under-Secretary of State to Lord Dartmouth, and a Commissioner of Excise. He had favoured conciliation of the colonies.

Permit me now, my Lord, before I proceed any further in this business to ask you, whether what I have here stated corresponds with your ideas in the directions you gave me yesterday? . . .

3

JOHN POWNALL TO LORD SHELBURNE

2 February 1783[1]

. . . Your Lordship having, in the note which I had the honour to receive from you on Friday morning, signified to me your commands that I should proceed with the business to which it refers, I have in obedience to those commands taken a more comprehensive view of the several statutes necessary to be revised and considered in consequence of the provisional agreement with the United States of America on the 30th of November 1782. . . .

[Past legislation must be reviewed] because it will otherwise be impossible to form any precise idea of the engagements it may be proper to enter into in forming a federal union founded on the liberal basis of mutual convenience and reciprocal advantage, or to state those questions the decision upon which your Lordship justly observes, ought to be had as early as possible. . . .

[He summarizes the aims of the laws of trade as (*a*) to confine trade to English ships, (*b*) to restrain the colonies from trading to Europe except through British ports, (*c*) to discourage the manufacture of woollens in the colonies.]

It would be an injury to common sense to suppose that the subjects of the United States of America are to continue in the predicament of aliens, and it would be equally so, to suppose that they can be relieved from that situation without considerable concessions on their part. . . .

[Pownall proposes a test case to ascertain whether the subjects of the U.S.A. are aliens, what is their situation in regard to commerce, whether they are exempt from prohibitions and restrictions or can be freed from them by royal authority.]

If His Majesty's authority alone is not competent to stipulate such exemption, in what manner can an act of Parliament be so framed as to convey that authority, as not to commit the legislature in concessions without an engagement of reciprocal advantages on the part of the United States? . . .

[1] B.M. Add. MSS. 42,395, ff. 57–64.

4

THE AMERICAN INTERCOURSE BILL

March 1783[1]

A Bill for the provisional establishment and regulation of trade and intercourse between the subjects of Great Britain and those of the United States of North America.

Whereas the following thirteen provinces of North America, namely, New Hampshire, Massachuset's Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, North Carolina, Delaware, Maryland, Virginia, Pennsylvania, South Carolina, and Georgia, have lately been solemnly acknowledged by His Majesty to be, and now are, free, independent, and sovereign states, by the name and description of the United States of America: . . .

[All laws of trade that regulate or prohibit commerce between Britain and the United States (including the recent embargoes) are repealed.]

And whereas, whilst the aforesaid thirteen provinces were annexed to and constituted a part of the dominions of Great Britain, the inhabitants of the said provinces enjoyed all rights, franchises, privileges, and benefits of British subjects born in Great Britain, as well in respect to the trade and commerce with Great Britain as in other instances; and in consequence thereof the vessels of the said inhabitants, being navigated in like manner as British ships and vessels are by law directed to be navigated, were admitted into the ports of Great Britain, with all the privileges and advantages of British-built ships:

And whereas, by the several laws now existing, for regulation of the trade and commerce of Great Britain with foreign states, the subjects of the latter are, as aliens, liable to various commercial restrictions, and also to various duties and customs at the ports of Great Britain, which hitherto have not been applicable to, or demandable from, the inhabitants of the several provinces now composing the said United States of America.

And whereas it is highly expedient that the intercourse between Great Britain and the said United States should be established on the most enlarged principles of reciprocal benefit to both countries: but,

[1] This Bill was formally introduced in the House of Commons on 3 March 1783 by William Pitt, as Chancellor of the Exchequer, after Shelburne's defeat and resignation. But the preliminary work and perhaps the drafting of the Bill itself had been done by John Pownall under Shelburne's direction. See the report of the debate at the Committee stage in the Commons (7 March) in *Parl. Hist.*, xxv, 602. The text of the Bill is printed in Bryan Edwards, *The History . . . of the British West Indies* (5 vols., Lond. 1819 edn.), vol. ii, pp. 491–4. The Order in Council of July 1783, which regulated Anglo-American trade in a way very different from that proposed here, is printed in W. Knox, *Extra-Official State Papers*, Lond. 1789, vol. ii, App. XVI. An Act of 1788 (28 Geo. III, cap. 6) later gave statutory force to this restrictive policy.

from the distance between Great Britain and America, it must be a considerable time before any convention or treaty for establishing and regulating the trade and intercourse between Great Britain and the said United States of America, upon a permanent foundation, can be concluded:

Now, for the purpose of making a temporary regulation of the commerce and intercourse between Great Britain and the said United States of America, and in order to evince the disposition of Great Britain to be on terms of the most perfect amity with the said United States of America, and in confidence of a like friendly disposition on the part of the said United States towards Great Britain, be it further enacted, that from and after the ——, the ships and vessels of the subjects and citizens of the said United States of America, with the merchandizes and goods on board the same, shall be admitted into all the ports of Great Britain in the same manner as the ships and vessels of the subjects of other independent sovereign states; but the merchandizes and goods on board such ships or vessels of the subjects or citizens of the said United States, being of the growth, produce, or manufacture of the said United States, shall be liable to the same duties and charges only as the same merchandizes and goods would be subject to if they were the property of British subjects, and imported in British-built ships or vessels, navigated by British natural-born subjects.

And be it further enacted, that during the time aforesaid, the ships and vessels of the subjects and citizens of the said United States shall be admitted into the ports of His Majesty's islands, colonies, or plantations in America, with any merchandizes or goods of the growth, produce, or manufacture, of the territories of the aforesaid United States, with liberty to export from His said Majesty's islands, colonies, or plantations in America, to the said territories of the said United States, any merchandizes or goods whatsoever; and such merchandizes and goods, which shall be so imported into, or exported from, the said British islands, colonies, or plantations in America, shall be liable to the same duties and charges only as the same merchandizes and goods would be subject to if they were the property of British natural-born subjects, and imported or exported in British-built ships or vessels, navigated by British seamen.

And be it further enacted, that during all the time hereinbefore limited there shall be the same drawbacks, exemptions, and bounties, on merchandizes and goods exported from Great Britain into the territories of the said United States of America, as are allowed in the case of exportation to the islands, plantations, or colonies, now remaining, or belonging to the crown of Great Britain, in America.

And be it further enacted, that all ships and vessels belonging to any of the citizens or subjects of the said United States of America, which shall have come into any port of Great Britain since the ——,

together with the goods and merchandizes on board the same ships and vessels, shall have the full benefit of this Act.

5

INSTRUCTIONS TO DAVID HARTLEY, 18 April 1783[1]

Instructions for Our trusty and well-beloved David Hartley, Esqr., whom We have appointed Our Minister Plenipotentiary to trade with the Ministers Plenipotentiary of the United States of America residing at Paris. Given at Our Court at St. James's the eighteenth day of April 1783, in the twenty third year of Ourreign.

1. Having received these Our Instructions, with such other explanations on the business entrusted to your care and management as We have ordered to be given to you by Our Principal Secretary of State, you will proceed to Paris, and on your arrival, you will make known to the Ministers Plenipotentiary of the said United States residing there, that you are charged with a Commission from Us, and that you are desirous to enter with them into the consideration of the different points of business entrusted to your care; with as little delay as possible.

2. You are to treat with the said Ministers Plenipotentiary on the following points: viz.

First: for the purpose of opening the ports of Great Britain, and those of the said United States, for mutual intercourse of trade and commerce.

Secondly: you are to treat with the said Ministers Plenipotentiary upon any arrangements of trade, on the footing of reciprocity and mutual convenience.

And finally, you are to treat with the said Ministers for the purpose of concluding a definitive treaty of peace between Us and the said United States.

3. You shall, from time to time, correspond with one of Our Principal Secretaries of State, on the important points entrusted to your care, and acquaint him regularly, for Our information, with every proposal which may be made to you, in order to your receiving Our further pleasure thereupon. And you shall follow and observe such

[1] Draft in F.O. 4/2. *David Hartley*, as M.P. for Hull from 1774 to 1780 and from 1782 to 1784, won a reputation as an opponent of the American War and of the slave trade. His friendship with Franklin and his loyalty to Rockingham and Fox caused him to be selected as plenipotentiary in Paris, where in September 1783 he and Franklin signed the Treaty of Peace between Britain and the United States. In the parallel negotiations for a reciprocal trade treaty he came near to reaching agreement with the American delegates, but a propaganda campaign in England swung the commercial interests in favour of a more restrictive policy. Aware of the change in public opinion, Fox ceased to support Hartley's proposals; and upon the fall of the Fox–North Coalition the negotiations were terminated by the Pitt Administration, and Hartley was recalled.

further Instructions and Directions as you shall, from time to time, receive from Us, through Our said Secretary of State.

6

PROPOSALS FOR COMMERCIAL RECIPROCITY WITH AN AUTONOMOUS IRELAND, 1785[1]

Resolved

1st That it is the opinion of this Committee that it is highly important to the general interest of the British Empire that the trade between Great Britain and Ireland be encouraged and extended as much as possible, and for that purpose that the intercourse and commerce be finally settled and regulated on permanent and equitable principles for the mutual benefit of both countries.

Resolved

2dly That towards carrying into full effect so desirable a settlement, it is fit and proper that all articles not the growth or manufacture of Great Britain or Ireland should be imported into each Kingdom from the other at the same duties to which they are subject if imported directly from the place of their growth.

Comment.

This 2d Resolution involves in it the question of the reciprocal construction of the Navigation Act. By it Ireland will have the right to export to this country the produce of our plantations in Asia, Africa and America, of which the last only can be material. The produce of all other countries she is actually allowed to send us at present, though it is difficult to say on what principle this has been allowed, and the importation of colony produce prohibited under the terms of the Navigation Act. In fact, it does not seem likely that Ireland should ever send to us any considerable amount under the liberty here given, because a circuitous trade from our plantations through Ireland can never bring the articles here so cheap as the direct one. If anything can be apprehended from the competition of Ireland in colony trade, it is in *her merchants* bringing *in her ships* the produce of the colonies directly to this country; if this should be worth their while they may actually do it by the law as it stands at present, and therefore no fresh danger seems to be incurred by this concession. The thing itself seems just, as it is no more than construing the Navigation Act with respect to Ireland as it is there contrued with regard to Great Britain.

[1] H.O. 100/16, ff. 16–21. Enclosed in Sydney to Rutland, 6 January 1785. These are the original nine propositions as approved by the British Cabinet. The first eight were forwarded to the Lord-Lieutenant on 6 January 1785, together with an official commentary. The commentary may have been prepared by George Rose of the Treasury, whose pamphlet, *The Proposed System of Trade with Ireland explained*, (Lond. 1785), was generally regarded as representing the Government's case and followed similar lines. For an exposition of Pitt's plan, see Pitt to Rutland, 6 January 1785, pp. 179–82 above.

And that all duties originally paid on importation into either country respectively shall be fully drawn back on exportation to the other.

Comment.

If any of the import duty is allowed to remain on re-exportation it must either in so far discourage the circuitous trade (the continuance of which is in some respects advantageous to us, and which on the principles of a free intercourse ought not to be restrained) or it must raise a revenue on the produce thus exported for the benefit of the country not consuming it; if to prevent this discouragement of the circuitous trade the import duty on articles coming to either Kingdom through the other were to be made less than when they came directly, it would become almost impossible to avoid frauds on re-exportation to foreign parts from the difficulty of ascertaining what duty had been paid on importation, and consequently how much should be drawn back. The only question that seems to arise is how far our revenue may suffer, which it has not yet been possible to ascertain with sufficient accuracy.

3dly Resolved, That for the same purpose it is proper that no prohibition should exist in either country against the importation, use, or sale of any article, the growth, product, or manufacture of the other, and that the duty on the importation of every such article should be precisely the same in the one country as in the other, except where an addition may be necessary in either country in consequence of an internal duty on any article of its own consumption.

Comment.

[Such prohibited articles, e.g. wrought silks, lace, copper and brass articles, could in future be imported from Ireland, but it was estimated that the preferential duty on home manufactures would afford sufficient protection.]

4thly Resolved, That in all cases where the duties on articles of the growth and manufacture of either country are different on the importation into the other, it is expedient that they shall be reduced in the Kingdom where they are the highest to the amount payable in the other.

Comment.

[Details were given of articles (including sugar, cotton and silk manufactures and candles) on which Irish duties were lower than the British.]

. . . The principal danger which could ever be apprehended from lowering the duties would be that the Irish might undersell us here in some branches of the woollen and silk manufactures, and perhaps, the articles of sugar, of cotton, and of tallow candles. In the actual state of things the rate of duty seems immaterial, as in fact we now export most or all of these articles to Ireland (though under a duty there) and import none, which proves that at present we can supply them cheaper than they can supply themselves. It is to be considered also that while there remains *any duty* on the import of these articles to Ireland, they can never meet our manufactures on so good terms in our own market as abroad where they would be on equal terms, while here they will be subject to a duty (even after the reduction) which our manufactures are not, and they are now actually

at liberty to export any of their manufactures to foreign parts on such terms as they think fit.

With regard to woollens, which is the great object, it appears that Ireland in fact is not in possession of the raw material in quantity sufficient for her own consumption, there is therefore no danger of her being able to export any woollen unless by taking so much from her own consumption, in which case she must take more of the manufacture from us to supply the deficiency, or unless she can get the raw material elsewhere. She can not have it from hence as under the 6th Resolution our prohibition on the export will still continue. It does not seem probable that she will receive a larger supply than formerly from Spain or any other place, as notwithstanding her increase in demand her import of Spanish wool has not increased, and it is stated that the price of Spanish wool is so much dearer that the use of that cannot enable them to rival our manufactures, as what we use of it is generally mixed with other wool of our own growth considerably cheaper yet fit for the purpose. In general (even supposing Ireland to have the material for these manufactures and to think it worth while to attempt a competition in our market while others are open on better terms) the question will be whether the rates of duties (after the reduction) together with the expense of freight will not be sufficient to counterbalance any advantage they may have from the comparative cheapness of their labour. As far as it has yet been possible to investigate the particular circumstances of the manufactures there seems little ground for apprehension—but if upon the whole there should appear any considerable risk in the proposed rate of duties the Irish in the present [circumstances would] be probably better satisfied by fixing the rate of duties on these articles higher in both countries; as higher duties (provided they are equal in both countries) will come still nearer to the popular idea of protecting duties. It seems however much more consistent with the principles of a free intercourse to reduce the duties in both countries to the lowest standard which can with safety be admitted.

5thly Resolved, That for the same purpose it is also proper that in all cases where either Kingdom shall charge articles of its own consumption with an internal duty on the manufacture or a duty on the material, the same manufacture when imported from the other may be charged with a farther duty on importation to the same amount, and shall be entitled on exportation to the same drawback or bounty as the home made manufacture, such farther duty to continue so long only as the internal consumption shall be charged with the duty or duties to balance which it shall be imposed, or until the manufacture coming from the other Kingdom shall be subjected there to an equal burden not drawn back or compensated on exportation.

6thly Resolved, That in order to give permanency to the settlement now intended to be established it is necessary that no prohibition or new, or additional duties should be hereafter imposed in either Kingdom on the importation of any article of the growth, product or manufacture of the other, except such additional duties as may be requisite to balance duties on internal consumption pursuant to the foregoing Resolution.

7thly Resolved, That for the same purpose it is necessary farther that no prohibitions, or new, or additional duties should be hereafter imposed in either Kingdom on the exportation of any article of native growth, product, or manufacture from thence to the other except such as either Kingdom may deem expedient from time to time upon corn, meal, malt, flour, and biscuits, and also except where there now exists any prohibition which is not reciprocal or any duty which is not equal in both Kingdoms, and likewise that no bounties whatsoever should be paid or payable in either Kingdom on the exportation of any article to the other, except such as relate to corn, meal, malt, flour, and biscuits and such as are in the nature of drawbacks, or compensations for duties paid, and that no bounty should be granted in Ireland on the exportation of any article imported from the British plantations, or any manufacture made of such article, unless in cases where a similar bounty is payable in Britain on exportation from thence, or where such bounty is merely in the nature of a drawback or compensation of or for duties paid over and above any duties paid thereon in Britain.

Resolved 8thly, That whatever preference is now given in either Kingdom to the importation of any article of the growth, product, or manufacture of the other, or of the colonies, or plantations of Great Britain by any duty or prohibition on the importation, use, or sale after importation of the like or similar commodities from foreign parts shall in no sort be ever hereafter removed or lessened.

Comment.

The material advantage secured to us by this Resolution is to continue the preference given by Ireland to the produce of our colonies, and to such of our manufactures as she could have from other countries. The advantage to Ireland is continuing the preference to her linens, and it may require consideration how far this may be too great a restriction on any commercial treaties which we might form hereafter with other countries.

Additional Resolution, That it is expedient for the general benefit of the British Empire, that the importation of articles from foreign states, of which an adequate supply can be obtained from (Great Britain) should be regulated from time to time on such terms as may afford sufficient preference to the importation of such articles, the growth, produce, or manufacture of (Ireland).[1]

[1] This Resolution was omitted from the draft sent to Rutland on 6 January and was forwarded separately by Sydney. (Sydney to Rutland, 1 February 1785, 'Most Secret and Confidential': H.O. 100/16, ff. 118–19.) The latter explained that it had been originally intended to send the 9th Resolution with the others, but that the Cabinet were only prepared to approve it 'under an express condition' that the Irish Parliament would agree to the proposed contribution to Imperial defence. Two further propositions were added as the result of subsequent discussions, thus comprising the Eleven Propositions which Orde presented to the Irish Commons on 7 February 1785.

7

RESOLUTIONS OF THE COMMITTEE OF WEST INDIA PLANTERS AND MERCHANTS, 6 February 1784[1]

[The first resolution states that the West India colonies cannot function profitably without a cheap supply of American provisions, which can only be secured by the admission of American shipping.][2]

... *Resolved* therefore that Lord Penrhyn as Chairman of this Committee be requested to submit to His Majesty's Ministers the representation of the West India planters and merchants made on the 11th of April 1783 and that of the merchants dated the 20th November last, and further to submit the humble opinion of this Committee that it may be expedient by Proclamation to permit during the time His Majesty is empowered to permit the same, the importation into and the exportation from His Majesty's sugar colonies by American ships from and to any places in the dominions of the United States of America, of all such lumber, provisions, or other produce of His Majesty's said sugar colonies, or of the dominions of the said United States respectively, as might legally have been so imported into or exported from His Majesty's said sugar colonies by American ships before the late war from or to the said dominions of the said United States of America.

And that directions may be given to the Governors of His Majesty's sugar colonies to use their utmost endeavours for preventing any fees from being demanded or taken from the Masters of American ships coming to the said sugar colonies other than such as are authorized by law.

And that Lord Penrhyn be further requested in the most earnest manner to represent the distressed state of His Majesty's sugar colonies for want of this intercourse which in the opinion of this Committee absolutely requires that not a moment should be lost in giving such relief therein as the nature of the case shall in His Majesty's wisdom admit.

[1] B.T. 5/1, pp. 3–4. These resolutions were presented by the W.I. Committee on 8 March 1784 in the form of a petition in response to William Pitt's request for a formal submission.

[2] In April 1783 the W.I. Committee had asked that 'such a share of the American trade may be preserved to the sugar colonies as will greatly tend to their support'. 'To this intercourse', they declared, 'the permission of American ships as heretofore, freely to bring the produce of the dominions of the United States to the sugar colonies and take back our produce in return, is . . . essential.'

8

MINUTES OF THE WEST INDIA COMMITTEE,

27 February 1784[1]

Lord Penrhyn reported that Lord Sydney had this morning informed him that His Majesty's Ministers were aware of great jealousies being entertained concerning the allowance of American ships to be carriers of the produce of the sugar colonies, but that being very desirous to give immediate relief to the sugar colonies, they had the following propositions under their consideration, on which they wished to have the sentiments of this meeting, viz.

1st. To permit the navigation between the Americans and the sugar colonies in American vessels not exceeding 80 tons burthen.

2d. To limit the produce they should take back by the value of that which they brought.

3d. To limit the ports in the sugar colonies, to one port in each of the Leeward Islands, and three in Jamaica.

The Committee having taken into their most serious consideration the propositions above stated, are unanimously of the opinion already by the planters and merchants repeatedly submitted to His Majesty's Ministers, that nothing but the unlimited permission of navigation by American ships between the American dominions and the sugar colonies can permanently support the true interest of this country in that respect, and that under proper regulations of such intercourse the jealousy entertained thereof would be wholly groundless. But they will at the same time thankfully receive such degree of relief to their present urgent necessities as His Majesty's Ministers think themselves authorized at the present moment in prudence to give, and thereupon they submit.

1st. Whether the tonnage may not be extended to 100 tons provided they be vessels having only one deck.

2d. Whether any limitation of the value of the produce to be taken away can be imposed to any good purpose.

The Committee are not aware of any reason why British plantation produce should not be consumed in America preferably to French; the limitation of tonnage certainly obviates all jealousy about their bringing any such produce to Europe, such vessels being wholly unfit for that navigation, and the American demand is the only demand for a great part of the rum, without the sale of which the British sugar colonies cannot subsist.

[1] C.O. 137/84. Richard Pennant, *Baron Penrhyn*, sat in the Commons as member for Liverpool and was a leading opponent of abolition of the slave trade. He was Chairman of the Committee of West India Planters and Merchants.

3d. Whether there can be any objection to admitting this navigation to any port in the sugar colonies where a Custom House is established.

The freight of lumber from one port to another in the same island, especially to ports lying to windward of the port of importation, would in many instances be at least equal to the freight from America, and would greatly enhance the price of so bulky a commodity to the consumer and the Committee are not aware of any benefit that would result from the limitation proposed.

Resolved, That Lord Penrhyn be requested to wait upon Lord Sydney accordingly, and to solicit that the relief which can at present be obtained may be given as speedily as possible.

9

INTERIM REPORT BY THE COMMITTEE FOR TRADE ON THE PETITION OF THE WEST INDIA COMMITTEE, 13 March 1784[1]

Their Lordships having in obedience to His Majesty's Order of Reference of the 8th instant taken into consideration the representation on behalf of a Committee of the West India Planters and Merchants setting forth the distressed state of His Majesty's sugar colonies with respect to the intercourse between the said Islands and the United States of America under the regulations contained in His Majesty's Orders in Council of 2nd July and 26th December last.

And their Lordships having thought it proper to turn their attention first to that part of the said representation in which it is suggested that the distressed state of the sugar colonies absolutely requires that not a moment should be lost in giving them relief by allowing them a free intercourse with the United States of America by ships belonging to the subjects of the said United States. Their Lordships are of opinion that as the law now stands (by which it is enacted that not only the powers and authorities given to His Majesty thereby but all Orders issued and published in consequence thereof shall continue and be in force no longer than until the 20th of April next) no relief can be granted so as to have any effect, as any Orders given for that purpose cannot arrive in the said Islands before the said law will expire.

[1] B.T. 5/1, pp. 20–21. On 5 March 1784 a new Committee for Trade was appointed. Their first task was to deal with the W.I. Committee petition. Its members included Lords Sydney, Clarendon, and Grantham; Charles Jenkinson, Henry Dundas, and W. W. Grenville; with Stephen Cottrell and William Fawkener acting as Secretaries. Though Pitt was nominated to it in January 1786, it was Jenkinson who was the most zealous and influential member, and in August 1786 when the new permanent Committee of *ex officio*, as well as specifically nominated, members was established, he became President as Lord Hawkesbury, with Grenville as his deputy and Grey Elliott and George Chalmers among the clerks.

And as the relief at present granted by His Majesty's Order in Council to the said Islands depends solely upon the continuance of the said law, the Lords are of opinion that no time should be lost in proposing to Parliament the further continuance of the said law for a limited time in order that the same liberty of importing in British vessels for a limited time may be continued to them.

10

SIR GUY CARLETON: EVIDENCE BEFORE THE COMMITTEE FOR TRADE, 16 March 1784[1]

Sir Guy Carleton being desired by their Lordships to give his opinion upon the general question (of allowing the trade between the West India Islands and the United States in American bottoms) observed that the measure appeared to him liable to very great objections, for that it was beyond a doubt, in his opinion, that opening the trade for lumber and provisions with the United States in their shipping would exceedingly injure the colonies in North America remaining to Great Britain; is of opinion that the United States would be able to supply the Islands with lumber and provisions for the ensuing season much cheaper than Canada or Nova Scotia; and is inclined to think that Nova Scotia could not for the present be able to supply them to the extent of their wants if the demand is really such as he had heard stated by some of the Planters; but flatters himself, notwithstanding, that if the loyalists get possession of their lands so as to begin to cultivate them this spring Nova Scotia with Canada might be able to furnish a supply to the whole extent both of lumber and provisions before the end of the year 1785. Upon the question whether they would be able to furnish the supplies at as cheap a rate is of opinion that with proper encouragement they would, but cannot answer the question with precision.

Upon the question whether Canada is not capable of supplying great quantities of provisions for the Islands, is of opinion that it might do so to a great amount—large exports of wheat were made from Canada prior to the war, from 200,000 to 400,000 bushels a year, particularly in the year 1774, when the export amounted nearly to 500,000 bushels, but the increase was owing to particular circumstances. . . .[He] Is of opinion that Canada in future years might, according to the seasons, furnish a supply of 200,000 or 300,000 bushels. Being asked if there was any prospect of obtaining lumber from Canada, was of opinion that a great supply may be had from thence especially if we include Vermont and other parts of the country

[1] B.T. 5/1, pp. 26–28. The Committee continued to consider the West India petition during March, April, and May, hearing evidence from Lord Sheffield, Brook Watson, George Chalmers, Thomas Irving, and others.

about Lake Champlain; admitted that the climate is uncertain and in some years the crops fail, but Nova Scotia alone will soon be able to supply all our Islands with plenty of provisions of all kinds, viz. grain, live cattle, salted provisions and fish.

Being asked whether the people of Nova Scotia will build sloops and other small vessels and carry provisions, etc. to the West India Islands: said he had no doubt but they would—but cannot say in what time; that several ship carpenters with their crews were gone to Nova Scotia expressly for the purpose of ship building, and that many Loyalists of considerable property had expressed their desire of becoming settlers in that province with a view to follow the same business. . . .

11

WILLIAM KNOX: EVIDENCE BEFORE THE COMMITTEE FOR TRADE, 18 March 1784[1]

Mr. Knox attending was called in and desired to give their Lordships any information falling within his knowledge relating to the subject under consideration, and first as to the time when it might be expected that supplies for the West India Islands might be derived from Canada and Nova Scotia, and the mode of conveyance.

Mr. Knox said he had been the person who had suggested the Regulations contained in the Orders in Council respecting American trade, and had been employed in framing the several Orders, that the objections which were urged on behalf of the West India Merchants had been all stated to him and had been fully considered prior to the issuing the Order respecting the trade between the West India Islands and the United States.

That it had been foreseen that some immediate difficulty might arise from want of the supplies which had been in course of coming down—that the war had interrupted them, but they had found means to get some supplies by prizes; and others from this country; that the great point of consideration at that time was whether the supplies proper to be allowed from the United States should be brought in American ships, or confined to ships belonging to Great Britain. The articles intended to be permitted to be brought from the United States were such as this country or Ireland could not then supply; and the remaining colonies in North America were not then in a condition to

[1] B.T. 5/1, pp. 35–42. *William Knox* had been Colonial Agent for Georgia and East Florida, but lost that position when he wrote in defence of the Stamp Act. From 1770 to 1782 he had been Under-Secretary of State for American Affairs. He was a rigid mercantilist, who seems to have exerted considerable influence upon official policy at that time. In July 1783, at the instance of Lord North, he drew up the Order in Council excluding American shipping from the West Indies. He failed to secure re-employment under the Pitt Administration.

supply. It was not judged necessary to allow the import of them into the West India Islands in ships belonging to the United States, nor was it apprehended there would be any difficulty in obtaining the supplies in ships belonging to Great Britain. . . . If however from any sudden resentment of the restraint of their ships they should form some association to refuse to sell to the British ships—the owners of the British ships in the American seas were much in the habit of having double registers and would probably qualify themselves as ships belonging to Americans, by having owners resident in those States. There were other methods also of acquiring those supplies, which it was expected would be put in practice, if any difficulty arose of obtaining the supplies the direct way. They could be obtained through the foreign Islands, as they had been during the war; and as by the former Order in Council American ships were permitted to bring the unmanufactured produce of the United States to Great Britain, it would be very easy for any ship that intended to take a cargo to the West India Islands, to clear out for Great Britain, and as there was neither bond nor penalty to oblige her to perform the voyage according to her declaration, no inconvenience could follow from her altering her voyage and going to the West India Islands.

On the other hand the injury to the navigation of this country was apprehended to be so great from permitting American ships to come to our West India Islands, that it was thought highly improper to allow it, rather than risk some small inconvenience to the Islands by the restraint. The number of ships which according to the Custom House returns annually sailed from North America to the West Indies (foreign and British taken together) were about 700 sail of topsail vessels, and from 1,500 to 1,600 sloops, the quantity of tonnage about 112,000 ton, but the number of sloops was not so great as the Custom House accounts state it, by two thirds, as several made three voyages in the year, but the tonnage employed in the trade is precisely the same. Upon the question whether the same rule held with respect to the topsail vessels it was answered, that it does not to the same extent. . . .

It appears that the number of topsail vessels that have arrived from the West India Islands in North America have been nearly the same with the number which have sailed from thence for the West India Islands.

The course of the trade is as follows: The principal British merchants are concerned with Houses in the West Indies to whom they send their ships which carry out goods from hence and who provide cargoes of the West India produce to load them home. These ships are called *stationed ships*, and seldom or ever vary their course. But there are many others who go to the West Indies to look for freight and are called *seekers* in contradistinction to the stationed ships. When we exported grain to Portugal and the southern parts of Europe,

Madeira and the African Islands many of the ships which carried the same, when they had left their cargoes of grain, went on to the West Indies to look for freight. The ships also which arrived there from the coast of Africa with negroes wanted freight home. It often happened that freight was not to be had when these ships arrived. The merchants to whom the ships were consigned not being prepared to load them, therefore to save expense and preserve the ships from being eaten by the worm in the West Indian seas, or to avoid the hurricanes in that season of the year, they took on board as much rum, molasses and sugar as would pay for a cargo of lumber in North America, with which they returned in time to receive a cargo for Europe, or if they were not certain of that and they found a freight in North America for Europe they took it from thence. This trade would be almost entirely prevented by permitting the Americans to bring their lumber and provisions down in their own shipping, and consequently so much injury arise to the West India trade by cutting off this resource from the seekers which might prevent so many of them going out to bring home their own produce. . . .

Being asked whether he does not think that if British vessels are prevented from trading between the West India Islands and the Ports of the United States, and we should be forced to take our supplies from the foreign Islands, we should not suffer nearly as much in our navigation, as if we opened our West India Ports to the ships of the United States. *Replied*, he apprehends we should for the present, but that the consequences would not be ultimately so prejudicial. Is of opinion that there remains to Great Britain in North America a sufficient country to supply the West Indies with almost every article which is now permitted to be brought from the United States, and when that country is brought to a state of maturity those articles may be had cheaper from thence than they could have been through the intervention of the foreign Islands.

The question being asked, in case the United States should shut their Ports to British vessels, does he apprehend it to be possible by opening some Free Port, nearer to the United States than the foreign Islands to secure the trade of provisions and lumber to the subjects of Great Britain. *Replied*, he has not the least doubt of it, for whatever may be their intention either as separate States, or as United under the Congress, the coercive power of their Governments is so feeble, and the general interest of the inhabitants so directly against such a restraint, that he does not apprehend it would be possible to prevent vessels coming to such Free Port, if the same lay convenient. We have seen that during the bitterness of the war when they had much more coercive force, and the whole country was in arms against Great Britain, even then they could not restrain vessels from coming with supplies to our Islands. They will have a strong impulse from the circumstance of our Settlements in Nova Scotia to supply us, and

prevent our confining our resort for supplies entirely to Nova Scotia and Canada. The Northern States are exceedingly jealous of our Settlements upon the River St. John from whence we may draw supplies of lumber sufficient for our West India Islands for many years. . . .

12

FINAL REPORT OF THE COMMITTEE FOR TRADE ON THE PETITION OF THE WEST INDIA COMMITTEE, 31 May 1784[1]

. . . The Committee think right to conclude this head with two observations:

First. That in their judgment it is of the greatest importance and advantage to the planters of the West India Islands themselves that they should be able to procure all the articles of provision and commerce of which they stand in need from countries subject to the Dominion of Your Majesty and not depend on foreign countries for them.

Secondly. That Great Britain and the other Dominions and colonies still subject to Your Majesty are by every right exclusively entitled to the advantages which may be derived from a commerce of this nature. . . .

The Committee cannot conclude what they have to report to Your Majesty on this head without observing of how great importance it will be to the security of Your Majesty's islands in the West Indies and the prosperity of those planters, who have offered this representation to Your Majesty; in any future war, that the vessels of Your Majesty's subjects and the sailors that navigate them should be increased in those seas, to the diminution of the naval strength of other countries, so that the planters seem not to be aware that the consequence of success in their present application must eventually be not beneficial, but on the contrary even dangerous to themselves by diminishing those resources of naval strength on which the safety of the British Islands particularly depends. . . .

[The Committee consider the West Indian fear that the United States will make retaliation for the Order-in-Council of 2 July 1783.]

As the true interest of the Americans is contrary to any restrictive measures on their part, so there does not appear to be any principle of justice, by which they can indicate their proceedings on this occasion. By the general law of nations acknowledged by every European state,

[1] B.T. 5/1, pp. 229, 235, 247–9, 253–4. When the West Indians failed to prove that they would be ruined by the exclusion of American shipping, Jenkinson and the Committee were confirmed in their view that the security and prosperity of the Empire as a whole demanded the reassertion of the principle of the Navigation Acts. The privileged West Indians were required to make some sacrifice in return for this defence. Further representations in April had been rejected, and this final report vindicated Government policy.

no nation has a right to have any trade with the colonies of another. This principle has long been adopted and enforced by the particular laws of each respective Sovereign, and it has never been departed from but in cases where the Mother Country has, for its own interest or that of its other dominions, thought fit to allow of exceptions. The United States of America are now become, at their own option, an independent state and are acknowledged as such by Great Britain. They have a right to claim and enjoy every advantage which belongs to this situation; but they are bound to submit to those rules and restrictions which other countries as independent as themselves have never scrupled to acquiesce in. They have no right to say that they will be independent of Great Britain and yet enjoy all those advantages to which by virtue of their former dependence and connection they were before entitled. In short they ought to consider the permission given them to trade with Your Majesty's islands in the West Indies under the rules laid down in Your Majesty's Order in Council as a favour and indulgence to which no other independent country is admitted and have no right to complain of it as a grievance and restriction because they do not enjoy this commerce in the manner and to the extent they may wish.... Your Majesty has thought fit to allow them to import into Your islands, for the present, corn and grain which France has denied because the interests of Great Britain are not so materially affected by this permission; but Your Majesty has denied them the liberty of importing this, or any other part of their produce, in any but ships belonging to subjects of Your Majesty, because it has ever been the first and favourite object of Your Royal predecessors, as well as of Your Majesty, to encourage and augment as much as possible, the trade of Your subjects in shipping and navigation. For on this principally depends not only a considerable share of the wealth, but the security of all Your dominions.

It is not surprising, that after the late war had produced so great a change in the commercial system, the different parties should find some difficulty in settling their respective rights and interests; but the Committee have the satisfaction to find from the testimony of respectable merchants and others well versed in commerce, that whatever may be the issue of these disputes, the merchants and manufacturers of Great Britain have little to apprehend from the restrictions, which the United States, through resentment, or mistaken policy, are likely to lay on their commerce. The excellency of the manufactures of Great Britain aided by the credit at which they can be sold, will force a vent through every obstacle, which can be opposed to them.

On a full consideration of the foregoing facts and observations the Committee came to the following resolutions on the business referred to them which they humbly offer as their advice to Your Majesty.

Resolution 1st. That such unmanufactured goods and merchandizes being the growth or production of any of the countries under the

dominion of the United States of America, as Great Britain and Ireland cannot supply, and as the colonies remaining to Great Britain are not yet in a condition to supply in sufficient plenty, and at reasonable rates, be permitted to be imported from the countries under the dominion of the said United States, into Your Majesty's islands in the West Indies.

Resolution 2nd. That all goods and merchandizes, being the growth and production of Your Majesty's islands in the West Indies (except such as may be used in manufactures) be permitted to be exported for the present from any of the said islands to any of the countries under the dominion of the said United States.

Resolution 3rd. That it is not advisable for Your Majesty to comply with the request of the West India planters and merchants, by permitting the goods and merchandizes before described, to be imported to, or exported from Your Majesty's islands in the West Indies, from or to the countries under the dominion of the United States, in ships belonging to the subjects of the said United States.

Resolution 4th, That the goods and merchandizes before described be permitted to be imported and exported to and from the said islands and countries respectively by British subjects only, and in no other than British built ships, owned by Your Majesty's subjects, and navigated according to law.

The Committee in the conclusion of their report think it their duty humbly to represent to Your Majesty, that there has appeared in the course of their enquiries great reason to apprehend, that ships belonging to the subjects of the United States have been unduly registered as British ships, and admitted as such into some of the ports of Your Majesty's islands in the West Indies; and that the subjects of the said states are endeavouring to carry on a contraband commerce to some of the ports of the said islands with the produce of the countries under the dominion of the said States, to the great injury of the fair trader and of those who are inclined to support the due execution of the laws of Great Britain.

13

CAPTAIN HORATIO NELSON TO LORD SYDNEY

20 March 1785[1]

[H.M.S.] *Boreas*
Basseterre Road, St. Christophers.

My Lord,

It is not to criminate any individual but to vindicate my character as an officer, from the aspersions that are thrown upon it, by the

[1] C.O. 152/64 (Misc. papers). *Captain Nelson*, who had already served in both East and West Indies, was sent in 1784 in command of H.M.S. *Boreas* to St. Kitts, where public opinion was reluctant to accept the prohibition of trade with the new United

inhabitants in general of this island and Nevis, that I write this letter, this I beg may be my apology for troubling your Lordship. The character of an officer is his greatest treasure, to lower that, is to wound him irreparably—but as I trust it is only by doing my duty, that has caused these aspersions, the approbation of my Sovereign will make ample amends for the calumnies of the invidious. In November last I was appointed by the Commander in Chief of His Majesty's Squadron to the station at these islands to protect the commerce of Great Britain, which I have endeavoured to do by every means in my power. Americans at this time I am sorry to say filled our ports, but as I did not think that was a legal commerce I have constantly endeavoured to suppress it the doing of which has so much hurt the feelings of the people in general from the highest to the lowest, that they have not only neglected paying me that attention my rank might have made me expect, but reprobated my character by saying that I am the injurer of this colony, and that the Minister never intended to hinder the Americans from coming into our ports with any trifling excuse, only that the trade was not [to] be laid free from all restraint. This did not appear to me to be the meaning of His Majesty's proclamation, or any thing tending that way—consequently I have ever excluded all vessels belonging to the United States, from a free intercourse with our colonies, where the ship under my command has been stationed. But although these foreigners have been ordered away, not being in any distress, yet, my Lord, astonishing to tell, these vessels have almost always gone into some port in this island or Nevis and unladed their cargoes, what reasons they give to the officers of the revenue I know not, but almost uniformly are their reasons admitted to be good—at times the King's Ship is obliged to sail to the neighbouring islands to procure wood, water and provisions. Constantly when I returned, have I been informed from good authority that the Americans have had free egress and regress to our ports. (And one circumstance I must relate as a proof. Once I left three vessels from Nova Scotia in Basseterre Road. I was absent three weeks and when I returned I found those vessel with their cargoes on board—although 10 sail of Americans had in that time delivered cargoes and sailed, upon enquiring the reason of this extraordinary circumstance was told that the people said to the English—You may lay as long as you please but if the man of war comes she will turn away the foreigner.) The Custom House do not admit them to entry—only the Master makes a protest (and what they say they are ready to swear too) that the vessel leaks, have sprung a mast, or some excuse of that sort. Then the Customs grants them a permit to land a part or whole of their cargoes to pay expenses, under which permits are innumerable cargoes landed. Could the number of

States, and where orders by the Commander-in-Chief (Rear-Admiral Sir Richard Hughes) enabled a large illicit trade to be carried on.

the permits be found out which I fear cannot your Lordship would be astonished.

The Customs have refused to give answers to the King's officers if I send for information—They answer me they do not know any right I have to ask, and that they are not amenable to me for their conduct. . . .

I stand for myself—No great connections to support me if inclined to fall—therefore my good name as a man, an officer, and an English man I must be careful of. My greatest pride is to discharge my duty faithfully and my greatest ambition to receive approbation for my conduct. . . .

14

CAPTAIN NELSON TO LORD SYDNEY

23 June 1785[1]

[H.M.S.] *Boreas*, Nevis.

My Lord,

Herewith you will receive a memorial which I beg your Lordship will be pleased to lay before my most gracious Sovereign;[2] your Lordship by a former letter, which I had the honour of writing you, by the *Queen Charlotte* Packet, will know of the irritation of the inhabitants of these islands, for my having done what was my duty; your Lordship will now perceive by the memorial, that the anger of some people in these colonies is not lessened, and therefore they have taken the first opportunity of making me suffer pecuniary punishment, although what they have charged me with, they know is as false as anything can possibly be, for one of the parties I never saw, but my persecution, I must call it, is I have every reason to believe carried on by certain disaffected people, settled in these islands since the peace; if from the state of my case, you think me worthy of some attention, may I hope for your interest. . . . I should do injustice to the Attorney-General Mr. Stanley, and the other Crown lawyers, did I not say they have used every endeavour to stop this prosecution against me; but it is out of their power, the President of Nevis and the Judge of the Admiralty have also done what was in their power to have justice rendered me; by the advice of the Crown lawyers I have not stood trial, for the people are so irritated at present, that I should be, they fear, condemned, against all the evidence I could produce, that what they have laid to my charge is wholly false. . . .

[1] C.O. 152/64 (Misc. papers).

[2] His memorial, dated 23 June, reported that H.M.'s Proclamation prohibiting all trade with America save in British bottoms was 'most shamefully evaded'; and that his own 'unabating alertness to prevent this evasion, so advantageous to America and prejudicial to Great Britain' and his seizure (upon legal advice) of four American vessels has produced a 'disposition of the generality of the people' of Nevis which, in the opinion of the Attorney-General there, make it 'unsafe' for him 'to rely too much on the justice of his cause and put himself upon the country for trial'.

15

OPINION OF THE COMMITTEE FOR TRADE ON WEST INDIAN PROTESTS AGAINST THE NEW NAVIGATION ACT, 21 May 1787[1]

[Present: Lord Hawkesbury, William Pitt, W. W. Grenville, and others.]

Their Lordships have been attended by, and heard, several Planters and Merchants trading to the West India Islands, respecting the inconveniences to which they apprehend they may be exposed from the immediate operation of the second clause of an Act passed this session of Parliament intituled 'An Act to continue the Laws now in force for regulating the trade between the subjects of His Majesty's Dominions and the inhabitants of the territories belonging to the United States of America and to render the provisions thereof more effectual' enacting 'That no flour, bread etc. be imported from any foreign West India Island into any British Island'[2] and, as the said Planters and Merchants may not be prepared for this measure nor have provided vessels sufficient for carrying on the trade directly to the United States of America, are of opinion that it should be recommended to the Right Honourable Lord Sydney, one of His Majesty's Principal Secretaries of State, to instruct the Governors of His Majesty's Islands in the West Indies, and particularly the Governors of the Leeward Islands, that they should severally pay the greatest attention to any emergency, difficulty or distress which may arise from the first execution of the 2d clause of the beforementioned Act, and to direct the said Governors in case they shall see occasion, to avail themselves of the powers given them by the 3d clause of the said Act for granting relief. But their Lordships conceiving that any such emergency arising from the causes before mentioned cannot continue beyond the first day of October next, are of opinion that the said Governors should from that time carry the provisions of the said

[1] B.T. 5/4, pp. 282–3. The Committee for Trade had considered in March 1786 the need for a more effective operation of the principle of the Navigation Laws and had recommended a new registration of British shipping in order to curb illicit traffic and prevent fraud and the abuse of passes. Jenkinson took the lead in preparing the new Navigation Act (26 Geo. III, cap. 60) and making it 'as perfect as we were able'. 'It can hardly be called', he told the Lord President (Add. MSS. 38,309, f. 107), '. . . a Bill of Commercial Regulation. It is a Bill for the increase of Naval Power. It is perhaps the only important measure which in the course of the last fifty years has not met with any dissenting voice.' See also his speech introducing the proposals in April 1786 (*Parl. Hist.* xxv, 1372–6). The last of the enabling Acts (27 Geo. III, cap. 7) prohibited, even more strictly than the earlier ones, the importation of U.S. supplies from foreign West Indian Islands. The provision, however, for relief in cases of emergency or distress was so widely exploited both in the West Indian and Canadian Colonies, and especially after 1793 under the stress of war conditions, as to amount in practice to a substantial modification of the system.

[2] The foreign free ports had become depôts for the sale of goods from the United States.

Act into execution according to the Instructions conveyed to them in His Lordship's letter of the 6th of April last transmitting the said Act.

Ordered that a letter be written to the Right Honourable Lord Sydney accordingly.

16

CAPTAIN NELSON TO PHILIP STEPHENS

21 March 1799[1]

Burnham, Norfolk.

SIR,

Last night I received a letter (of which the enclosed is a copy) the contents of which cannot but give me uneasiness. Since May 1785 I have been continually harassed by my exertions in suppressing the illegal [trade] which was carrying on between the States of America and the West India Islands where I was stationed.[2] These people seem determined to go lengths which must be very unpleasant to me unless supported by Government. I feel happy that I never made a seizure whilst on that station without the advice of the Attorney-General or the Chief Law Officer of the Crown, where the case might happen and in this particular, I had the opinion of the Attorney-General and King's Proctor of Barbadoes, the Attorney-General and Senior King's Council of the Leeward Islands (where I was obliged from circumstances already known to their Lordships to carry) to sanction my proceedings.

I trust their Lordships will think that under such advice I could not be supposed to err in stopping the vessel, but that on the contrary I should have been guilty of neglect of duty had I suffered her to trade unmolested which she had repeatedly done since the peace (under false colours and papers). I hope their Lordships will take my situation into their consideration. . . .

17

REPORT OF THE COMMITTEE FOR TRADE ON ANGLO-AMERICAN COMMERCE, 28 January 1791[3]

. . . For these reasons the Committee are inclined to think that it may be advisable for Your Majesty to consent to open a negotiation with

[1] Admiralty 1/2223.

[2] Evasions were common. Later by an American Intercourse Act of 1794 (34 Geo. III, cap. 35) West India Governors were indemnified for permitting breaches of the Navigation Laws during the previous year.

[3] *Report of the Privy Council Committee for Trade and Foreign Plantations, on the Commerce and Navigation between His Majesty's Dominions, and the Territories belonging to the United States of America*, prepared by Lord Hawkesbury, pp. 98–101. Charles Jenkinson, first *Lord Hawkesbury*, had been President of the Committee for

the United States for the purpose of making a commercial treaty, especially as Congress appears inclined to this measure. But it will be right, in an early stage of this negotiation, explicitly to declare that Great Britain can never submit even to treat on what appears to be the favourite object of the people of these States, that is, the admission of the ships of the United States into the ports of Your Majesty's colonies and islands. It may be proper also to make them understand that Great Britain has measures in view, sufficient for the protection and support of its own commerce and navigation, in case Congress should proceed to make further distinctions to the detriment of these important objects, and should refuse to consent to a fair and equitable plan of accommodation. The proper mode of retaliation, which in such an emergency, may be pursued, has already been stated.

There can be no doubt that the commercial intercourse which at present subsists between Great Britain and the United States is highly beneficial to both countries; but it is equally certain that the United States have much more to apprehend from any interruption of this intercourse than Great Britain has to apprehend from any restriction which the Government of the United States may put upon it. It has been shewn that the commerce of these States with the other nations of Europe has hitherto been of no great extent; and there are circumstances which make the further augmentation of it very difficult. It has been shewn also that the merchants of Great Britain alone are inclined to run the risk, and to give the credit, which are essential to the support of a commercial connection with all newly established countries. The articles which the people of the United States now send to the European markets are but few, and can be obtained in equal perfection from other countries: and it is more likely that the demand for them from thence should in future diminish, than increase. When the crops of grain in Europe happen at any time to fail, the people of the United States will have an opportunity of exporting (as in the course of last year) great quantities of corn to the markets of Europe; but there is no trade so precarious as that of corn; and no system of foreign commerce, permanently profitable, can be founded upon it; and new settlements are forming in the neighbourhood of the United States which will soon rival them in this, and in every other staple commodity which they produce. The fisheries of the United States, once so prosperous, are now greatly declined, because there is no longer any sufficient market for the sale of the produce of them; the former success of these fisheries is principally

Trade since 1786. This report, 'privately printed for official purposes only' and based on evidence of merchants engaged in the transatlantic trade and of British Consuls in America, was made in consequence of Acts of Congress in July 1789 which imposed heavier duties on foreign imports brought in foreign shipping—a measure which caused a shift in Anglo-American trade to U.S. ships that was further accelerated by the outbreak of war with France and the protection which the neutral flag of the U.S. could afford. (A copy of this report is also in Add. MSS. 38,349, pp. 255–302.)

to be imputed to the share which the produce of them had before the war in the markets of the British Dominions. Since the peace, the merchants of the United States have endeavoured, by means of the cheapness of the rum, distilled from molasses, to carry on a trade to the coast of Africa, but with little success. At the same time they launched also into a trade with the countries to the east of the Cape of Good Hope, particularly China, which was at first profitable; but this trade soon found its limit, and has of late very much declined; the people of the United States have not wealth sufficient to support any large consumption of Asiatic luxuries, so that those who have engaged in this trade now found their hopes on the profits to be derived from smuggling these articles into other countries. It must be acknowledged that the commercial intercourse between the United States and the French islands in the West Indies has of late been greatly increased; and it is also probable that the merchants of these states have found opportunities to open illicit and profitable connections with the subjects of the Spanish dominions in America; but as these sorts of commercial connection, though perhaps encouraged by the people of the French and Spanish colonies, are highly detrimental to the interests of their respective mother countries, and contrary to the laws by which the commerce of those colonies has hitherto been regulated, the continuance of the advantages, which the people of the United States may derive from these sources of wealth, must be precarious, and will depend on circumstances. Such is the present state of the commerce of the United States; the Lords of the Committee have thought it right thus to collect these considerations, which have been stated more at large in the former parts of this Report, and to bring them once more under the view of Your Majesty, in order to shew that Your Majesty may safely resist any unreasonable pretensions, but not to prevent a commercial arrangement with the United States, founded on terms which are consistent with the essential interests of the commerce and navigation of the British Dominions. . . .

18

LIEUT.-GOVERNOR J. G. SIMCOE TO HENRY DUNDAS, 2 June 1791[1]

. . . The *immediate advantages* which will result to Great Britain are that it is a soil, climate and situation better adapted to allure

[1] C.O. 42/316, pp. 327–9. From a series of papers endorsed 'Colonel Simcoe's ideas respecting the establishment of the province of Upper Canada'. Simcoe's idea of Canada becoming a great corridor for the passage of British manufactures to the 'Middle West' was an echo of a plan which had gained some currency in England during the period immediately following American independence. But the St. Lawrence was not yet a practicable waterway for such a traffic, and American merchants imported British goods for the interior directly through American ports. See also *Simcoe Papers*, vol. iii, p. 53.

American settlers than any she possesses: that the very circumstances of its peninsular situation is likely to prevent emigration from this to the circumjacent shores till the whole country shall be filled up; and that this condensation of a numerous industrious agricultural people is the real force of a nation and the most desirable strength of a frontier colony.

The *future prospects* this peninsular country holds out are that proportionately as the surrounding countries become populous, it will become the secure medium, as Holland is to Germany, of the most profitable intercourse with all the inhabitants between the Apalachian mountains and the Mississippi now colonizing in a fruitful climate, capable by a little commercial encouragement of being made to produce a variety of raw materials which Great Britain at present procures from foreign, if not from hostile, nations and which will be exchanged for British commodities; and this commercial intercourse may acquire establishment at the very period when every nation seems to aim at acquiring commerce and naval power by imports and acts of navigation of its own.

The Spanish Court is particularly jealous in preventing these trans-Apalachian Americans from passing down the Mississippi; in consequence they must be reduced to the paths over the mountains to obtain all those commodities which they are necessitated to import from Europe, or they must procure them by means of their rivers which are navigable with[in] ten, twenty or thirty miles of the Lakes.

It is our business to seize hold of the opportunity while the League of Congress with the House of Bourbon prevents them from assisting their trans-Apalachian subjects in forcing the passage down the Mississippi and while those new settlements are in their infancy which would render such an attempt on their part without the aid of Congress, though the Indians should be neutral, precarious and difficult. It seems to be our business to grasp at this moment to possess ourselves of this growing trade and to turn it by all the powers of first possession and habit into this advantageous channel, bearing always in mind the immense strength which the carrying trade of this increasing commerce and which, by means of Quebec, we shall exclusively possess will add to the bulwark of Great Britain its naval power. . . .

19

LORD HAWKESBURY TO LORD GRENVILLE

17 October 1794[1]

MY DEAR LORD,

I received last night the box and letter you sent me, and though I am so unfortunate as to differ with your Lordship in opinion on one

[1] *Chatham Papers*, P.R.O./30/8/152. Printed in *Canadian Hist. Rev.*, vol. xv, p. 46. *Grenville*, as Secretary of State for Foreign Affairs, was engaged in negotiations with

important point in the American negotiation,[1] yet I am happy to comply with your Lordship's wishes in giving all the articles of the proposed treaty the best consideration I am able. . . .

I have made no observations on the article which relates to the commercial intercourse between the United States and the West India Islands. I consider this point as irrevocably decided, against the opinion I have always entertained and publicly professed.[2] To this part only of the present transaction I object; I have already assigned most of the reasons on which my opinion is founded. I now send you my observations on the articles of the Treaty as they are drawn, I fear they are incorrect, but I have had but a short time to consider them. I wish for many reasons, that if there is to be any farther Cabinet on the point, on which we differ, I may not be summoned to it. My attendance may occasion discussion which cannot now be of any use. . . .

20

'JAY'S TREATY' OF AMITY, COMMERCE, AND NAVIGATION, 19 November 1794[3]

Article III

It is agreed that it shall at all times be free to His Majesty's subjects, and to the citizens of the United States, and also to the Indians dwelling on either side of the said boundary line, freely to pass and repass by land or inland navigation into the respective territories and countries of the two parties on the continent of America, (the country within the limits of the Hudson's Bay Company only excepted,) and to navigate all the lakes, rivers and waters thereof, and freely to carry on trade and commerce with each other. But it is understood that this article does not extend to the admission of vessels of the United States into the sea-ports, harbours, bays or creeks of His Majesty's said territories; nor into such parts of the rivers in His Majesty's said territories as are between the mouth thereof and the highest port of entry from the sea, except in small vessels trading *bona fide* between Montreal and Quebec, under such regulations as shall be established to prevent the possibility of any frauds in this respect.

John Jay, Chief Justice of the United States. (This letter is presumably to Grenville, although his name does not appear on the document.)

[1] Article 12: see below, p. 275. Hawkesbury was convinced that 'the extent of our navigation is to be preferred in general to the extent of our commerce, for on the first depends the security of everything' (Add. MSS. 38,310, p. 197). Grenville, however, believed that shipping would always be in proportion to trade—a principle than which, said Hawkesbury, there could be 'none falser'.

[2] See his criticism of the proposals to be made to Jay in Add. MSS. 38,354, pp. 38–55.

[3] *American State Papers, Foreign Relations*, Wash. 1832, vol. 1, p. 520. The full text is printed in S. F. Bemis, *Jay's Treaty*, New York 1923, App. VI. The Treaty was concluded on 19 November 1794; ratifications were exchanged in London on 28 October 1795, and it was proclaimed on 27 February 1796.

Nor to the admission of British vessels from the sea into the rivers of the United States, beyond the highest ports of entry for foreign vessels from the sea. The river Mississippi shall, however, according to the treaty of peace, be entirely open to both parties; and it is further agreed that all the ports and places on its eastern side, to whichsoever of the parties belonging, may freely be resorted to and used by both parties, in as ample a manner as any of the Atlantic ports or places of the United States, or any of the ports or places of His Majesty in Great Britain.

All goods and merchandize whose importation into His Majesty's said territories in America shall not be entirely prohibited, may freely, for the purposes of commerce, be carried into the same in the manner aforesaid by the citizens of the United States, and such goods and merchandize shall be subject to no higher or other duties than would be payable by His Majesty's subjects on the importation of the same from Europe into the said territories. And in like manner all goods and merchandize whose importation into the United States shall not be wholly prohibited, may freely, for the purposes of commerce, be carried into the same, in the manner aforesaid, by His Majesty's subjects, and such goods and merchandize shall be subject to no higher or other duties than would be payable by the citizens of the United States on the importation of the same in American vessels into the Atlantic ports of the said States. And all goods not prohibited to be exported from the said territories respectively, may in like manner be carried out of the same by the two parties respectively, paying duty as aforesaid.

No duty of entry shall ever be levied by either party on peltries brought by land or inland navigation into the said territories respectively, nor shall the Indians passing or repassing with their own proper goods and effects of whatever nature, pay for the same any impost or duty whatever. But goods in bales, or other large packages, unusual among Indians, shall not be considered as goods belonging *bona fide* to Indians.

No higher or other tolls or rates of ferriage than what are or shall be payable by natives, shall be demanded on either side; and no duties shall be payable on any goods which shall merely be carried over any of the portages or carrying-places on either side, for the purpose of being immediately re-embarked and carried to some other place or places. But as by this stipulation it is only meant to secure to each party a free passage across the portages on both sides, it is agreed that this exemption from duty shall extend only to such goods as are carried in the usual and direct road across the portage, and are not attempted to be in any manner sold or exchanged during their passage across the same, and proper regulations may be established to prevent the possibility of any frauds in this respect.

As this article is intended to render in a great degree the local

advantages of each party common to both, and thereby to promote a disposition favourable to friendship and good neighbourhood, it is agreed that the respective Governments will mutually promote this amicable intercourse, by causing speedy and impartial justice to be done, and necessary protection to be extended to all who may be concerned therein. . . .

ARTICLE XII[1]

His Majesty consents that it shall and may be lawful, during the time hereinafter limited, for the citizens of the United States to carry to any of His Majesty's islands and ports in the West Indies from the United States, in their own vessels, not being above the burthen of seventy tons, any goods or merchandizes, being of the growth, manufacture or produce of the said States, which it is or may be lawful to carry to the said islands or ports from the said States in British vessels; and that the said American vessels shall be subject there to no other or higher tonnage duties or charges than shall be payable by British vessels in the ports of the United States; and that the cargoes of the said American vessels shall be subject there to no other or higher duties or charges than shall be payable on the like articles if imported there from the said States in British vessels.

And His Majesty also consents that it shall be lawful for the said American citizens to purchase, load and carry away in their said vessels to the United States, from the said islands and ports, all such articles, being of the growth, manufacture or produce of the said islands, as may now by law be carried from thence to the said States in British vessels, and subject only to the same duties and charges on exportation to which British vessels and their cargoes are or shall be subject in similar circumstances.

Provided always, that the said American vessels do carry and land their cargoes in the United States only, it being expressly agreed and declared that, during the continuance of this article, the United States will prohibit and restrain the carrying any molasses, sugar, coffee, cocoa or cotton in American vessels, either from His Majesty's islands or from the United States to any part of the world except the United States, reasonable sea-stores excepted. Provided, also, that it shall and may be lawful, during the same period, for British vessels to import from the said islands into the United States, and to export from the United States to the said islands, all articles whatever, being of the growth, produce or manufacture of the said islands, or of the United

[1] Among several features of the Treaty disliked by many Americans this Article was the most obnoxious. After a bitter struggle in the Senate it was agreed to ratify the Treaty, but with a reservation which suspended Article XII. Orthodox mercantilists in Britain rejoiced at this rejection: Hawkesbury wrote on 4 January 1796 (Add. MSS. 38,310, p. 148), 'Our West India Islands will never be safe if the subjects of the United States are allowed to have a free intercourse with them and import among other articles their democratic principles into the ports of those islands.'

States respectively, which now may, by the laws of the said States, be so imported and exported. And that the cargoes of the said British vessels shall be subject to no other or higher duties or charges, than shall be payable on the same articles if so imported or exported in American vessels.

It is agreed that this article, and every matter and thing therein contained, shall continue to be in force during the continuance of the war in which His Majesty is now engaged; and also for two years from and after the date of the signature of the preliminary or other articles of peace, by which the same may be terminated.

And it is further agreed that, at the expiration of the said term, the two contracting parties will endeavour further to regulate their commerce in this respect, according to the situation in which His Majesty may then find Himself with respect to the West Indies, and with a view to such arrangements as may best conduce to the mutual advantage and extension of commerce. And the said parties will then also renew their discussions, and endeavour to agree whether in any and what cases neutral vessels shall protect enemy's property; and in what cases provisions and other articles, not generally contraband, may become such. But in the mean time, their conduct towards each other in these respects shall be regulated by the articles hereinafter inserted on those subjects.

Article XIII

His Majesty consents that the vessels belonging to the citizens of the United States of America shall be admitted and hospitably received in all the sea-ports and harbours of the British territories in the East Indies. And that the citizens of the said United States may freely carry on a trade between the said territories and the said United States, in all articles of which the importation or exportation respectively, to or from the said territories, shall not be entirely prohibited. Provided only, that it shall not be lawful for them in any time of war between the British Government and any other power or state whatever, to export from the said territories, without the special permission of the British Government there, any military stores, or naval stores, or rice. The citizens of the United States shall pay for their vessels when admitted into the said ports no other or higher tonnage duty than shall be payable on British vessels when admitted into the ports of the United States. And they shall pay no other or higher duties or charges, on the importation or exportation of the cargoes of the said vessels, than shall be payable on the same articles when imported or exported in British vessels. But it is expressly agreed that the vessels of the United States shall not carry any of the articles exported by them from the said British territories to any port or place, except to some port or place in America, where the same shall be unladen and such regulations shall be adopted by both parties as shall from time to

time be found necessary to enforce the due and faithful observance of this stipulation. It is also understood that the permission granted by this article is not to extend to allow the vessels of the United States to carry on any part of the coasting trade of the said British territories; but vessels going with their original cargoes, or part thereof, from one port of discharge to another, are not to be considered as carrying on the coasting trade. Neither is this article to be construed to allow the citizens of the said States to settle or reside within the said territories, or to go into the interior parts thereof, without the permission of the British Government established there; and if any transgression should be attempted against the regulations of the British Government in this respect, the observance of the same shall and may be enforced against the citizens of America in the same manner as against British subjects or others transgressing the same rule. And the citizens of the United States, whenever they arrive in any port or harbour in the said territories, or if they should be permitted, in manner aforesaid, to go to any other place therein, shall always be subject to the laws, government and jurisdiction of what nature established in such harbour, port or place, according as the same may be. The citizens of the United States may also touch for refreshment at the island of St. Helena, but subject in all respects to such regulations as the British Government may from time to time establish there.

Article XIV

There shall be between all the dominions of His Majesty in Europe and the territories of the United States a reciprocal and perfect liberty of commerce and navigation. The people and inhabitants of the two countries, respectively, shall have liberty freely and securely, and without hindrance and molestation, to come with their ships and cargoes to the lands, countries, cities, ports, places and rivers within the dominions and territories aforesaid, to enter into the same, to resort there, and to remain and reside there, without any limitation of time. Also to hire and possess houses and warehouses for the purposes of their commerce, and generally the merchants and traders on each side shall enjoy the most complete protection and security for their commerce; but subject always as to what respects this article to the laws and statutes of the two countries respectively.

Article XV

It is agreed that no other or higher duties shall be paid by the ships or merchandize of the one party in the ports of the other than such as are paid by the like vessels or merchandize of all other nations. Nor shall any other or higher duty be imposed in one country on the importation of any articles the growth, produce or manufacture of the other, than are or shall be payable on the importation of the like articles being of the growth, produce or manufacture of any other

foreign country. Nor shall any prohibition be imposed on the exportation or importation of any articles to or from the territories of the two parties respectively, which shall not equally extend to all other nations.

But the British Government reserves to itself the right of imposing on American vessels entering into the British ports in Europe a tonnage duty equal to that which shall be payable by British vessels in the ports of America; and also such duty as may be adequate to countervail the difference of duty now payable on the importation of European and Asiatic goods, when imported into the United States in British or in American vessels.

The two parties agree to treat for the more exact equalization of the duties on the respective navigation of their subjects and people, in such manner as may be most beneficial to the two countries. The arrangements for this purpose shall be made at the same time with those mentioned at the conclusion of the twelfth article of this treaty, and are to be considered as a part thereof. In the interval it is agreed that the United States will not impose any new or additional tonnage duties on British vessels, nor increase the now-subsisting difference between the duties payable on the importation of any articles in British or in American vessels. . . .

21

WILLIAM FAWKENER TO JOHN KING

2 December 1796[1]

SIR,

I have received and laid before the Lords of the Committee of Council for Trade and Foreign Plantations your letter of the 17th ult. enclosing an extract of a letter from Mr. President Esdaile to the Duke of Portland, dated St. Christopher's 20th Sept. 1796, informing His Grace that in the Islands of St. Christopher and Nevis, as well as all the other Windward Islands, muscovado sugar is permitted to be exported in American bottoms. And I am directed by their Lordships to observe that it is contrary to law to permit any foreign vessels

[1] C.O. 5/37, pt. II, pp. 195–6. *William Fawkener* was a clerk of the Privy Council in ordinary and with Stephen Cottrell (also a Privy Council clerk) was responsible for the administrative work of the Committee of the Privy Council for Trade and Plantations from its inception in 1784. When that committee was reconstituted in August 1786, Fawkener and Cottrell were reappointed, and, in view of the greatly increased work of the Committee, they were joined by Grey Elliott, 'formerly Solicitor and Clerk of the Reports to the Board of Trade and now Under-Secretary of State in the Plantation Department'. They were provided with a staff of six clerks, 'one necessary woman', and two messengers (B.T. 5/4, p. 11). *John King* was for many years an Under-Secretary in the Home Department, serving in that capacity under the Duke of Portland (1794–1801) and others. He was granted the reversion to the Naval Office in Jamaica 'in reward of his long and faithful services'. Like many other permanent officials in England who were so rewarded, he appointed a deputy when the office fell vacant, and never visited the island.

to enter the ports of His Majesty's Islands in the West Indies, except such as are Free Ports established there by Act of Parliament under the several Regulations contained in the Acts made for that purpose; and even in these Free Ports this indulgence does not extend to American vessels. It is also contrary to law to permit sugar or any of the principal articles produced in these Islands to be exported from thence, except in British vessels; so that even the small foreign vessels belonging to European States which are allowed to enter the Free Ports in these Islands, are not permitted by the Laws made for this purpose, to export sugar or any of the principal articles produced in these Islands.

At the commencement of this War some of these Islands being in temporary want of provisions, the Governors thereof, influenced by their Councils, were desirous of opening their ports to small American vessels for an occasional supply. At that time, however, Governor Shirley represented that the planters of these Islands would always endeavour to induce the Governors to grant this indulgence. But that almost every British Island in the West Indies has a number of small vessels, by which a considerable trade is carried on to America, and that it would scarcely ever be really necessary to exercise a discretionary power of opening the ports, as will appear by a letter in your Office of the 8th of Dec. 1789.

The Government, however, of this country, being desirous that the Islands should not be distressed for provisions during the continuance of the War, thought fit to acquiesce in the exercise of this power in the Governors, of opening, in cases of emergency, the ports of the Islands to American vessels laden with provisions: yet as this practice was clearly contrary to Law and highly penal, a Bill has annually been proposed to Parliament for indemnifying them in this breach of the Law;[1] but it never was conceived by the Lords of this Committee that the Governors of the Islands would extend this indulgence so as to allow sugar to be exported by these foreign vessels, which is not only contrary to the Laws of Navigation, but very detrimental to the commerce, navigation and revenue of this country, especially as sugar now pays no duty on such exportation. If it should be urged on the part of the Governors that there must be some return for the provisions so brought in these foreign vessels from America, it may be answered that on all former occasions, provisions so brought to these Islands, have been paid for in money, particularly in Spanish dollars, of which there has always been found sufficient quantities in the Islands for that purpose, and that if any further indulgence, in aid of the payment for these provisions, were to be allowed, nothing but rum or molasses, for which there is a great demand in the countries from whence such provisions are brought, should be permitted to be

[1] Compare also the Statute (34 Geo. III, cap. 35) for indemnifying governors for permitting importation and exportation in foreign ships.

exported in these foreign vessels. The Lords of this Committee, therefore, take the liberty of recommending to the Duke of Portland, that His Grace should call the attention of the Governors of these Islands to a proper discharge of their duty in this respect, and to a discreet exercise of the power so assumed by them, and remind them, that as they are acting contrary to the Laws of Navigation which they are sworn to observe, their justification and indemnity from penalties must depend upon the sense which Parliament shall entertain of the propriety and discretion of their conduct on these occasions. . . .

22

JOSEPH MARRYAT: CONCESSIONS TO AMERICA THE BANE OF BRITAIN, 1807[1]

. . . One grievance, of which the British colonies feel the weight, is the system adopted by the mother country towards the colonies captured from the enemy, which are immediately put on the same favoured footing as her own legitimate possessions, and have her home consumption opened to them. The British market is now clogged with the produce of Demerary, Surinam, Tobago, and St. Lucia; while, by the policy of the enemy, the produce of the colonies of Great Britain is excluded from almost every part of the continent of Europe. The cultivation and population of these temporary possessions are augmented by British capital and British speculators; and, as they before were, so they again probably will be, restored to their former owners, with increased means of rivalling the British colonies in the continental markets at a peace, after having done them infinite injury in the British market during war.

But the great cause of the distress under which the British planters labour is that Great Britain gives even the colonies of which the enemy retains possession such superior advantages to those which her own colonies enjoy, as have already aggrandized the former in an extraordinary degree, and as, if continued, must inevitably ruin the latter. In former wars, the hostile powers could only maintain a commercial intercourse with their colonies by hazarding their fleets to carry it on. This necessity has led to some of the most brilliant naval victories of Great Britain, and constantly enriched her navy with the spoils of the enemy. But now that not a ship of any power with which we are at war, dare shew itself on the ocean, that our enemies have no practicable means of carrying on their own commerce with their colonies, Great Britain injudiciously permits a neutral power to

[1] *Concessions to America the Bane of Britain; or the Cause of the Present Distressed Situation of the British Colonial and Shipping Interests explained, and the Proper Remedy suggested*, Lond. 1807, pp. 5–10 and 36–41. *Joseph Marryat*, M.P., a Colonial Agent for Grenada and Trinidad, defended West India preference and attacked slave emancipation and the African Institution.

carry it on for them. Under her flag, these colonies receive their supplies from, and ship their produce to their respective mother countries, without interruption, and are sheltered from the hazards, and even the expenses of war. . . . It may safely be asserted, that America, without being mistress of a single colony, now imports more West India produce from the colonies of the enemy than is made in all those which are annexed to the crown of Great Britain.[1]

Another disadvantage under which the British colonies labour, compared with the foreign colonies, arises from the system adopted by the mother country respecting their intercourse with the United States of America. The foreign colonies are permitted to receive every article necessary either for their subsistence or manufactures, and to give every species of their produce in exchange. The British colonies are not only totally prohibited from purchasing many articles of the very first necessity, but are restricted from paying for such as they are allowed to purchase in any produce but rum and molasses. Specie they have none to give; and the demand for rum and molasses in the American market being limited, the consequence is that the captains frequently refuse to take those articles in payment, and carry their cargoes away to the foreign colonies, where they can barter them for more desirable commodities, leaving the British colonies in extreme want. By the last advices from the West Indies, the planters in the Leeward Islands were paying eighteen dollars, or four guineas per barrel, for flour, to induce the Americans to part with it for rum; and that rum, too, given at the very lowest peace rate of 2*s.* 6*d.* currency, or about 1*s.* 3*d.* sterling per gallon; while the Americans bring the same flour to Europe, and sell it, for cash, at 38*s.* to 40*s.* per barrel; those being the actual prices of it at this moment in London. This circumstance clearly shows the ruinous terms on which the British planter purchases his supplies, under the present restrictions. If he supplicates His Majesty's Ministers for permission to barter so much of his sugar with the Americans as will procure him the necessaries of life, the boon is denied; and he is compelled to ship the whole of his crop to Great Britain, where it will not fetch the duties, charges, and expenses of cultivation. This denial is founded, too, on the necessity of a strict adherence to the navigation system. Thus, where the relaxation of this system would be beneficial to him, it is rigidly enforced; and where the enforcement of it would be beneficial to him, it is unaccountably relaxed, by the novel permission granted to a neutral power of carrying all the produce of his rivals to undersell him in the European market.

This interdict has been enforced even in Trinidad, notwithstanding

[1] The author adds this note: 'General Smith, of Baltimore, acknowledged in the senate of the United States, that the amount of West India produce annually re-exported, after supplying the home consumption of America, was twenty-eight millions of dollars, or nearly seven millions sterling.'

the peculiar claim which a colony in an infant state has to the fostering care and indulgence of the mother country; notwithstanding the notoriety of the fact that sugar, the produce of newly-cultivated land, is so inferior in quality as not to be worth shipping to Great Britain at the present prices; notwithstanding that few of the planters in that island have correspondents here to whom they can consign their crops; and notwithstanding that none of them, in the present depressed state of the market, can obtain any advances on their shipments, but may be starved, together with their negroes, in Trinidad, before their sugars, which are to furnish them with the means of subsistence, can arrive in London, and the proceeds, if any, when they are sold, can be ascertained and placed at their disposal. Since the promulgation of the Order in Council issued by the late administration, sugar has been selling in that unfortunate colony at $2\frac{1}{2}$ dollars per cwt. being little more than half the price which is necessary to indemnify the planter for the bare cost of raising it, a fact that has been proved before the Committee of the House of Commons; and the merchants who receive it in payment, even at that low rate, will suffer as much by the remittance as the planter did by the cultivation of the commodity. Whether the inhabitants of a country are obliged to send their produce where it will be totally unproductive, or to give it up at once under a requisition, differs in name only. On what just principle can the mother country thus arbitrarily retain the monopoly of all the produce of her colonies, when she can no longer procure a market for it at home, and when, by the adoption of a new political system, she has herself deprived her planters of their accustomed participation in the markets abroad? . . . Concession has ever led to new demands, as the history of all our negotiations with America has abundantly demonstrated. . . . In proportion as the prosperity of our colonies declines by these impolitic concessions, all those great interests which are dependent upon them must decline also. . . .

[He enumerates the colonial trade, 'the nursery of seamen and naval power'.]

Either the old maritime system must be reverted to, or the new system be carried one step farther; and Great Britain must request that America will have the complaisance to carry on the future commerce of her colonies, as she now does that of her enemies, in order that both may be placed on the same footing, and enjoy the same advantages, of receiving their supplies, and transporting their produce to Europe, at peace freights and peace premiums of insurance. . . .

Mercantile men will not be imposed upon by the fallacious idea that America, in carrying on this commerce, does but labour for Great Britain; and that all the returns for this produce are made in British manufactures. They know that American ships which carry these cargoes to the ports of the enemy find it cheaper, when there,

to take their returns in the goods of those countries, than to make a second voyage to procure goods in Great Britain: and that this consideration, joined with the partiality which the colonists of every nation have for the productions of their mother countries, induces the Americans to increase their importation, not of British but of foreign manufactures, as well for their own consumption as for the supply of the colonies of the enemy. . . .

23

ALEXANDER BARING: AN INQUIRY INTO THE CAUSES AND CONSEQUENCES OF THE ORDERS IN COUNCIL, 1808[1]

It might naturally have been expected that, in proportion as our vigilant enemy, pursuing his system of war on our commerce, succeeded in gradually banishing it first from his own dominions, and subsequently from the whole of the Continent of Europe, with the single exception of the poor and barren country of Sweden, considerable loss and embarrassment to several branches of that commerce must ensue. The West India planters, who, from causes which we shall hereafter notice, had extended their cultivation much beyond the consumption of the mother country, were the first to complain. The ship-owners, excluded from one port after the other on the Continent, as they fell under the dominion of France, and suffering in some degree from the distress of the West India planters, soon followed them. The exporter of goods to the Continent had lost his trade, and in many instances part of his outstanding capital. The East India Company's warehouses were loaded with goods belonging to the Company and individuals, for which there was a very inadequate demand.

These several important and powerful bodies united the principal commercial interests of the country: their distress was well known to be real, and could not fail to attract the attention of the public and of Government. But the remedy was not so apparent: for want of any satisfactory solution of the difficulty, perhaps also from an inconsiderate disposition to involve in their common misfortunes the only remaining branch of trade left uninjured, a state of things, the real cause of which was sufficiently obvious, was ascribed by all to the intercourse of neutrals with the Continent of Europe; and the want

[1] *An Inquiry into the Causes and Consequences of the Orders in Council: and an Examination of the Conduct of Great Britain towards the Neutral Commerce of America*, Lond. 1808, pp. 1–4, 161–3, 167. *Alexander Baring*, M.P. (later Baron Ashburton), banker and financier, son of Sir Francis Baring (see above, pp. 17–19), had close connexions with the United States by business and marriage. He was an early advocate of freer trade, though Peel's policy in the 1840's was later to alarm him.

of sale for their commodities was asserted to be the effect, not of the restrictions of the enemy, but of the competition of Americans. This delusive opinion was unfortunately, as I must think, too ably illustrated by the author of 'War in Disguise';[1] and while the sufferers caught eagerly at the supposed cause of their misfortunes, the eloquence of this performance, employed on materials partially sound and generally plausible, combined with the manly and patriotic spirit which it breathes, established the author's opinions in the mind of the public at large, and with many statesmen of all political parties.

The advocates of the West India interest, in a variety of publications, became particularly pressing for the enforcement of the suggested remedies; their former partiality for America vanished; the old grievance of want of intercourse with her was forgotten; the so often repeated complaint of high duties was now a minor object; and their great weight in the general scale of national wealth was pompously displayed, to compel the Government to adopt their now favourite plan of forcing their commodities on the Continent of Europe at the risk of war with the remaining Neutrals. This was to be the effectual remedy for all their misfortunes; and one of the most intelligent and moderate of that body, concludes his suggestion of various remedies, with which the public are already familiar, by regretting that, notwithstanding the strong case made out by the author of 'War in Disguise', the British Government had not chosen to avail itself of the *fortunate opportunity of going to war with America.*[2] This writer, it is true, confines his information as to the *fortunate* consequences of such an event to the sale of his sugar; but lest the unfortunate effects, as also the injustice as well as impolicy of ruining one trade to support another, should occur to the reader, he takes care, as all writers on the same side have done, to interest the independent feelings of the country, by adding that we should 'convince America that Great Britain, though she has conceded much, will not concede everything'. . . .

Every merchant understands the natural tendency of extraordinary scarcity or abundance to reproduce each other. The destruction of St. Domingo occasioned high prices of sugar and coffee throughout the world: these high prices encouraged an increased cultivation in the islands, which now again produce a general glut of these articles. The present low prices, which are a natural consequence, it is stated, and I believe truly, do not always pay the planter the expense of cultiva-

[1] A pamphlet published in 1805 by the elder *James Stephen*, who from 1783 to 1794 as a lawyer in St. Kitt's had had much practice in dealing with illegal trading by Americans. He believed West India distress to be due to the action of the French in opening their carrying trade to neutrals (especially American ships) under the exigencies of war. This American carrying trade was 'a war in disguise' which supported French commerce and secured the foundation of an American navy. This pamphlet was credited with having brought about the issuing of the Order in Council of 1807.

[2] Bosanquet's *Letter on the Causes of the Depreciation of West Indian Property*, Lond. 1807, p. 42.

tion. The chasm produced by the sudden loss of St. Domingo, has been now more than filled up by the increased produce of foreign colonies, and especially of Cuba, while the consumption on the Continent of Europe has certainly been very much reduced. The British planters, however, were most unfortunately tempted into the competition of raising sugar for those European countries who have no colonies of their own; forgetting that the comparative want of fertility of our islands for ever disables them from supplying any market of which they have not the monopoly; at least, for any longer period than until other colonies are able to overtake them. . . .

[While insisting that the opening of British West Indian ports to neutrals would not, in fact, enable the planters to supply the markets of Europe, the writer thinks that they might to some extent furnish the American market (at present monopolized by France and Spain) and secure in return much-needed American provisions and timber. Although restrictions for the purpose of favouring British shipping were sound in principle, 'we should at least carefully ascertain that they really produce the benefits they profess'.]

If the complaints of the West India planter of the neutral trade of America are founded in error, those of the other great commercial bodies are supported by still less plausible ground. The Continent of Europe, it seems, will not take the manufactures of India from Leadenhall-street, and the Americans are accused of introducing them into different parts of the world from their own country. Considering the Company in the mixed character of sovereigns and merchants, their first object must be, that the consumption should not be checked; and I should rather have expected that the efforts of America to circulate the manufactures of India in countries to which we have no access, would have been promoted and encouraged. If we have always thought it good policy to permit the intercourse of neutrals with our Indian possessions, the Americans are, in every respect, to be preferred to those of the North of Europe. Their political institutions prevent their forming any settlements in India, and habits and language will always lead them to ours. They have no manufactures of their own to interfere with us, but always go to market with money. Their intercourse, therefore, in every point of view, must be politically inoffensive, and commercially beneficial. If a war with America should destroy the whole of her trade to India and China, we should probably feel severely the want of silver. To Bengal the Americans may be computed to send about half a million sterling annually in Spanish dollars, and about the same sum to China, which is certainly more than is sent from Great Britain. It is immaterial who brings the silver into the market, of which it facilitates the general circulation. At Canton, I understand it is indispensably necessary, as the merchants are obliged to pay the duties in silver; but if brought there by the Americans, the Company is equally enabled to circulate the manufactures of this country. It appears, from a return made to the House of Commons, that the value of British manufactures exported to

China has been gradually but rapidly increasing. In 1782 it amounted to £105,041, in 1792 to £559,651, and in 1805 to £1,102,620. I am not able to ascertain what quantity of silver has been sent during the same period, but I have no doubt that it has diminished since the regular supply of the market by the Americans; and that our factory has not only been able, by this circumstance, to increase the sale of our manufactures, but also to provide, in a greater degree than formerly, for their purchases, by drafts on the Company at home, and on the different presidencies in India.

The interest of the ship-owner remains only to be considered, whose prosperity must depend upon that of the different branches of commerce, and whose case might therefore be said to be determined by theirs. The shipping interest never fail to avail themselves of their connection with our naval power in enforcing their complaints and opinions, which, it is to be regretted, is frequently done with a disposition to indiscriminate monopoly, which all commercial bodies acting together never fail to shew. A few commonplace phrases about our *Old Navigation Laws* and our *Maritime Rights*, answer the place of argument, and little trouble is taken to ascertain in how far they may or may not be really injured by any remedies suggested for the relief of others. This domineering spirit falls principally upon the West India planters, and of the loudness and extent of the outcry before they are even hurt, some opinion may be formed by recollecting the clamour against the American Intercourse Act. It is to be hoped, however, that no Ministers will be withheld by political cowardice from administering equitably and impartially between the different commercial interests of the country; and that, where the encouragement of our shipping required restrictions and monopolies, which I by no means deny, that their efficacy and utility will be thoroughly investigated.

24

LORD LIVERPOOL: MEMORANDUM FOR LORD CASTLEREAGH ON A NOTE BY JOHN QUINCY ADAMS PROPOSING A COMMERCIAL TREATY BETWEEN BRITAIN AND THE UNITED STATES

26 September 1816[1]

. . . I have always been strongly of opinion that it was the decided interest of this country to maintain as far as possible the monopoly

[1] B.T. 1/110. Adams's note was dated 17 September. Liverpool argued (as his father would have done) that formal negotiations should not be undertaken unless informal agreement were already arrived at. *John Quincy Adams*, a future President of the United States, had been in charge of the negotiations at Ghent in 1814 for peace with Britain, and was U.S. Minister to the Court of St. James until September 1817, when he became Secretary of State in President Monroe's Cabinet.

of the intercourse between the Mother Country and the colonies. That there may be circumstances under which it may become necessary to relax such a monopoly I can readily admit, but I doubt the expediency of agreeing to any compact to this effect which would as far as the compact goes take away from the Government of this country all discretion. If the relaxation is to be ever allowed for temporary convenience, let it be granted as matter of indulgence, but let not the Mother Country throw out of its hands the power of withdrawing or modifying it whenever it may think proper. . . . I conceive our system to be to preserve the monopoly to our own ships except in cases of urgent necessity; and in such cases if the monopoly is relaxed I do not see how we could decline relaxing it in favour of the American as well as of other powers. Another reason against entering into any compact for opening the Ports of our colonies to foreign powers arises out of the present state of the West India colonies which would make it in my judgment most inexpedient to limit our rights of sovereignty or to fetter our discretion in any way whatsoever respecting those colonies at this time. . . .

25

NICHOLAS VANSITTART: MEMORANDUM FOR LORD CASTLEREAGH ON J. Q. ADAMS'S PROPOSAL, September 1816[1]

. . . . It may be right to mention, though not perhaps of immediate practical importance in this business, that I more than doubt the wisdom of the principle of reciprocal monopoly established in our colonial system.

It was perhaps natural that our ancestors should adopt it from the Spaniards, Portuguese and Dutch by all of whom it was enforced to the utmost of their power both in the East Indies and America; but I believe it has produced very injurious effects both to the colonies and the Mother Country and that it was one of the principal causes of the American revolution. I think too that the present state of the European colonies in general makes a general revision of our colonial system very expedient if not absolutely necessary; but as I do not think a commercial arrangement with the United States the most proper occasion for establishing such new regulations as the present state of things may require, I abstain from entering further on this extensive subject.

[1] B.T. 1/110. *Nicholas Vansittart*, who had established a reputation as a financier under Addington and Grenville, had been Chancellor of the Exchequer since May 1812 in Liverpool's administration.

26

LORD BATHURST: MEMORANDUM ON J. Q. ADAMS'S PROPOSAL, 6 October 1816[1]

Our colonial system will I believe be found to be *generally* speaking the same with regard to all foreign States.

By the Free Port Act (45 Geo. 3 cp. [57]) a relaxation of these Laws was made in favour of some British ports in the West Indies, with several limitations and restrictions, and confined to vessels owned and navigated by the subjects of European States, having possessions on the continent of America. The late Lord Liverpool, who brought in the Act, deliberately worded it so as to exclude American vessels from the benefit of the provisions.

On the other hand by the 28 Geo. 3 cp. [6], and by other Acts, the trade of our West India colonies with the United States is placed in several instances on a better footing than it is with European States; the United States therefore have no right to complain, if enjoying commercial advantages peculiar to themselves, they do not participate in those which the vessels of some European States have been for some time past permitted to possess.

The Free Port Act passed while the Commercial Treaty with the United States was in force and was not considered as a violation of it.

Whether we could extend the provisions of the Free Port Act (brought in for the encouragement of our clandestine trade with South America) to the vessels of the United States is a different question. I am inclined to think we might do so, even with advantage to our clandestine trade; but it remains to be considered, whether it might not be prejudicial to our colonial system in other respects. At any rate, it should not be granted without an equivalent. Any further relaxation of our colonial system cannot at the present moment be undertaken.

There is no objection to leave for discussion the commercial intercourse between the United States and our North American Provinces—not however admitting that the United States have any right to complain of the high duties which the Provincial Legislatures may have imposed on the import and export trade with the United States, so long as there are not lower duties on corresponding articles imported from and exported to other foreign States. The fact is, almost every direct commercial intercourse between these Provinces and the United States is a modification of our colonial system; it may not be placed on a favourable footing in Upper Canada, but the regulation under which it is allowed in the Lower Province, must shew that the intercourse is not regulated on a principle of ill will towards the United States. . . .

[1] B.T. 1/110. Lord Bathurst had been asked to prepare a précis of the state of the law between the West India colonies and foreign states.

27

JOSEPH MARRYAT TO HENRY GOULBURN

8 February 1817[1]

SIR,

I have this morning received from New York the enclosed copy of a Bill reported to the House of Representatives by the Chairman of their Committee of Foreign Relations; the object of which evidently is to destroy the trade now carrying on in British ships between the United States and the British West India colonies, and to oblige Great Britain to concede to America during peace the advantage she enjoyed during the War, of supplying those colonies with provisions and lumber in her own vessels. The importance of this measure appears to me to entitle it to the immediate consideration of His Majesty's Ministers, and as it peculiarly affects the interests of the British colonies, I felt it my duty to send it to you to be communicated to Lord Bathurst.

Permit me at the same time to suggest whether this measure might not be effectually counteracted by opening one or two ports in New Brunswick, or Nova Scotia to American vessels, as has already been done with respect to Bermuda? By this means the supplies of lumber and provisions necessary for the West India colonies might be obtained from those ports at only the addition of the coasting freight across the lines and still imported from thence to the West Indies in British ships. On account of the distance between the United States and Bermuda, opening the intercourse through that channel does not afford the same advantage, either in the prime cost of the articles or in the extent of British navigation. . . .

28

RICHARD RUSH TO J. Q. ADAMS

14 June and 17 September 1819[2]

14 June 1819 London.

. . . On the 9th I addressed a note to Lord Castlereagh, to request an interview, that I might proceed to lay before this Government, without losing any time, the determinations to which the President had come on the important subject of the commercial intercourse

[1] B.T. 1/113. *Henry Goulburn* succeeded Peel in August 1812 as Under-Secretary to Lord Bathurst at the Colonial Department, a position which he held until 1821. In July 1814 he had been appointed one of the Commissioners for negotiating peace with the United States.

[2] These two letters are printed in *American State Papers, Foreign Relations*, vol. iv, Wash. 1834, pp. 404–6. *Richard Rush* was appointed U.S. Envoy to Britain in October 1817.

between the United States and the West Indies. His Lordship appointed yesterday for me to wait upon him.

I commenced with calling to mind the point at which the discussions had left off upon this branch of the negotiation last autumn, and gave a new assurance of the President's earnest desire to see this trade opened upon a footing of entire and liberal reciprocity, rather than stand any longer upon the conflict of arbitrary laws. In this spirit I was instructed to offer a projet, which had been carefully drawn up upon the basis of a compromise between the pretensions of the two parties, and which, indeed, would be found to fall in so entirely with the propositions of Great Britain in some respects, and to make such an approximation to them in others, that a hope was cherished of its proving acceptable.

That, in particular, it would be found to adopt the description of naval stores and of lumber, as articles to be exported from the United States, upon which the British plenipotentiaries had themselves insisted—confining the former to pitch, tar, and turpentine, and the latter to staves, headings, and shingles, contrary to the more enlarged signification which it had been the desire of the American plenipotentiaries to give to them; that it acquiesced, also, in the exclusion of all salted provisions, including the important article of fish; that it, moreover, came wholly into the British views, in consenting to the exclusion of sugar and coffee as articles to be imported into the United States from the British West Indies; it being understood that the above traffic was to be opened upon equal terms, in all respects, to American and British vessels.

In return for such an accommodation to the colonial views of Great Britain, the projet asked, on the other hand, that the list of articles exportable from the United States to the West Indies should be the same as to Bermuda and to the British North American colonies; that the articles exportable to the United States should be confined to such as were of the growth, produce, or manufacture of the above islands or colonies; and that the same duties, and no more, should be payable on importations from the United States into the West Indies, whether the articles were brought directly or indirectly, as on similar articles imported into the West Indies from any foreign country, or from any of the British colonies.

With this outline of its contents, I handed a copy of the projet which came enclosed in your despatch to his Lordship. The discussions between the plenipotentiaries of the two Governments having recently been so ample on the matters which it embraces, I thought that nothing was likely to be gained by my leaving room for the possible hope that any of its essential provisions would be departed from. Accordingly, I deemed it best to say with candour, in the first instance, that, as it was offered, so was it to be taken; for that my present instructions would admit of no deviations, unless on points

verbal, or otherwise immaterial. I shall bear in mind that the parts within crotchets may be omitted. His Lordship received it with an assurance that a full and candid consideration would be given to it. . . .

17 September 1819

. . . Lord Castlereagh came to town on the 15th instant, and granted me an interview yesterday on the business of the West India trade.

Holding in his hands the proposals I had submitted, his Lordship premised that he thought it would perhaps be best for him to answer them in the same general way that the British articles, submitted through my predecessor in 1817, had been answered; that is, not in any formal manner, but merely by a word of conversation with me. I said that I was sure that the form of the answer would make no difference; its transmission to my Government, in whatever mode his Lordship might be pleased to convey it to me, would doubtless effect every substantial purpose.

In the answer there was no hesitation. Our proposals, he said, were not of a nature to form the basis of any agreement between the two countries. They would effect an entire subversion of the British colonial system: from this system they were not prepared to depart. Their colonies were, in many respects, burdensome, and even liable to involve the country in wars. Garrisons, and other establishments, were constantly maintained in them, at a heavy charge. In return, it was just that they should be incumbered with regulations, the operation of which might help to meet, in part, the expenses which they created. The great principle of these regulations was known to be the reservation of an exclusive right to the benefit of all their trade—a principle, of which the free port Acts had, it was true, produced some relaxation; but it had never been the intention of this Government to do anything more than offer to us a participation in these Acts. Some modifications of them would have been acquiesced in, suggested by local causes, and an anxious desire that our two countries might come to an understanding on this part of their intercourse. But to break down the system was no part of their plan. Our proposals, therefore, could not be accepted. Such were his remarks.

I observed that to break down the system was not our aim. All that we desired was that the trade, as far as it was gone into at all, should be open to the vessels of both nations upon precisely equal terms. If the system fell by such an arrangement, it was as an incident, and only showed how difficult it seemed to render its long continuance consistent with a proper measure of commercial justice towards us.

So broad and unequivocal was his Lordship's refusal, that it seemed almost superfluous to ask him to be more particular; yet, perceiving in me a wish to be made acquainted rather more specifically with the objections, he said that he would not scruple to mention them without, however, entering into details, for which he was not

prepared, and which had been amply unfolded on both sides during the negotiation this time twelvemonth. The objections were threefold. *First*, we asked an enumeration, by name, of all the ports in the West Indies that we desired should be open to our vessels; *secondly*, that the trade between the United States and the British colonies on the continent of America, and with Bermuda, should be confined within the same limits as that between the United States and the West India islands direct; and, *thirdly*, we asked that the duties on articles imported from the United States into the islands, in American ships, should be no higher than on the same articles when imported in British ships from the United States, or from any other country, without saying *foreign* country. These three provisions, particularly the second and third, would form insurmountable obstacles to the conclusion of any convention which should purport to embrace them.

I contented myself with replies as general. The communications from the joint mission last year, as well as some separate ones from this legation after it was over, will have informed the President how fully the views of our Government on the injustice of this sytem, in all its past effects upon us, have heretofore been stated. On this occasion I remarked, as to the first objection, that it was plain that, if the ports were not specially named, the privilege of admission to them would at any time be revocable whenever Great Britain thought fit to exclude from them any other foreign vessels. It would be, in short, a privilege with nothing positive or certain in its character. As to the second, I said that, should an indirect trade be opened with the islands in any greater extent than the direct trade, nothing was more clear than that the greater part, or the whole, would soon be made to flow in the channel of the former, to the manifest advantage of British bottoms. On the third objection, I said that an explanatory remark or two was all that I should add (it would be but repetition) to what had often been urged before. That we should deny to Great Britain the common right of protecting the industry of a part of her own dominions, by laying discriminating duties in its favour, might be thought, at first blush, to wear an appearance not defensible; but it would be found, on a moment's examination, to be strictly so. The system built up by Britain must be looked at altogether. It was in itself so inverted and artificial, that principles not disputed in the abstract ceased to be just when applied to it. Though one and all of these colonies were, indeed, of her dominion, yet were they made to stand, with respect to us, in the light of separate and independent countries. This was the keystone of the colonial doctrine. Why should we not, in turn, adopt and apply it to Great Britain? If we stipulated not to impose upon articles imported into the United States from the British West Indies any higher duties than upon the same articles coming from any other foreign country, a similar provision by Great Britain, to impose on articles exported from the United

States to her islands no higher duties than on the same articles when brought from any other *foreign* country, would obviously be one of but nominal reciprocity; since, after *her own* dominions on the continent of America, there was no other place whence such exportations to her islands would ever be made. Thus it was that this third provision, combined with the two others, became necessary to enable the United States, whilst prosecuting a trade with the British West Indies, to place their navigation upon a footing, not of verbal merely, but of real equality. It was the latter alone that could lay the foundations of a compact between the two nations that could ever be satisfactory or lasting. . . .

29

THE DUKE OF RICHMOND TO LORD BATHURST

3 June 1819[1]

Quebec.

. . . Herewith I have the honour to enclose to your Lordship the draft of a Bill for the better regulation of the trade between these Provinces and the United States by the St. Lawrence alluded to in my despatch marked private of the 16th May last, but which I was unable to transmit to your Lordship with that despatch, the Chief Justice under whom this Bill has been drawn up, wishing to have a little more time to consider further of some of its enactments. The objects of the Bill are first to regulate the trade between the Provinces of Upper and Lower Canada, an object of the first importance to the future tranquillity of both; and between those Provinces and the United States of America, by a permanent Act, and in a way which may equally promote the interests of the Mother Country and of the Canadas; and secondly to provide a fixed revenue which will enable the Crown in Lower Canada to support the Civil List of the Province without the necessity of an annual application to the Provincial Legislature for that purpose.

The principles of the commercial intercourse to be carried on between Upper and Lower Canada expressed in the Bill are those which by Commissioners mutually appointed by the two Provinces have been long settled. These principles have . . . always however been declared to be Law by *temporary* Acts; and in the last Session of the Provincial Legislature of Lower Canada a Bill for the appointment of Commissioners to regulate this intercourse as before was introduced, but was lost. The Provinces have thus been left without any rule in this respect, and the necessity of interference on the part

[1] B.T. 1/139. Extract enclosed in Goulburn to Lack 14 August 1819 (see below, p. 294). Charles Lennox, fourth *Duke of Richmond*, was appointed Governor-in-Chief of Canada in 1818. He died in August 1819.

of the Imperial Parliament is therefore manifest. The principle of communication in trade between these Provinces certainly ought no longer to be from time to time enacted by mere temporary Statutes in the Provinces, as has hitherto been the case. The jealousy or caprice of either Province at the expiration of either of these Statutes might have produced, and of course under similar circumstances may produce in future, the most serious injury to the general interests not only of both, but of the Mother Country; and if the trade with the United States by the St. Lawrence in British bottoms is to be encouraged, it is indispensible [*sic*] necessary that neither of the Canadas should have the power of affecting it, by any regulations of their intercourse with each other.

The great principle of the trade with the United States, as contained in the Bill . . . is to make the St. Lawrence the channel of importation and exportation in *British bottoms* for the trade of the interior of North America. A part of the Bill relates to the importation of certain articles for consumption in the Provinces, but this is no more than a re-enactment of the Acts which now regulate the trade of those Provinces with the States of America.

The remaining branch of the Bill imposes a new and permanent duty upon rum, spirits, brandy, wine and molasses, upon the principle of the British Statute 14 Geo. 3 cap. 88. The sum levied by these means cannot it is true be appropriated without an Act of the Provincial Legislature in consequence of the declarations contained in the British Statutes 18 Geo. 3 cap. 12 and 31 Geo. 3 cap. 31. . . .

30

HENRY GOULBURN TO THOMAS LACK

14 August 1819[1]

. . . Although the Bill appears to his Lordship to be one which may with some alterations and amendments [be] made extremely advantageous to the Provinces and to this country, yet he is not prepared to acquiesce in the propriety of extending to Canada that unlimited intercourse with all foreign countries which appears to be one of its principal provisions.

[1] B.T. 1/139. *Thomas Lack*, who had been a clerk to the Committee for Trade since 1786, was now Under-Secretary to the Committee. Goulburn is informing him of Bathurst's opinion of the draft Canada Trade Bill.

31

REPORT FROM A SELECT COMMITTEE OF THE HOUSE OF COMMONS APPOINTED TO CONSIDER OF THE MEANS OF MAINTAINING AND IMPROVING THE FOREIGN TRADE OF THE COUNTRY

18 July 1820[1]

It has appeared to your Committee that the means of attaining the object, to which their consideration has been directed by the order of the House, consisted less in affording any additional legislative protection or encouragement to the commerce of the United Kingdom with foreign states, than in relieving it from a variety of restrictions which the policy of a former period imposed upon it; and which, whether expedient or otherwise at the time when they were enacted, having ceased to be necessary for the purposes which originally recommended them, tend to embarrass its operations, and impede its extension and prosperity. Your Committee are satisfied that the skill, enterprise, and capital of British merchants and manufacturers require only an open and equal field for exertion; and that the most valuable boon that can be conferred on them, is, as unlimited a freedom from all interference, as may be compatible with what is due to private vested interests that have grown up under the existing system, and those more important considerations with which the safety and political power of the country are intimately connected.

Your Committee have therefore thought that they should best consult the intentions of the House, by directing their immediate attention to those regulations which, under the name either of restrictions or protections, operate in controlling the commerce of the kingdom, in order to estimate their nature and effects; and to judge in what degree it may be prudent to retain them, and in what instances (subject to the considerations referred to) their removal or modification may be recommended with safety and advantage.

In contemplating the range of the duty assigned to them, and the variety and importance of the objects of investigation embraced by it, your Committee were of opinion that the most convenient course they could adopt would be to take the subjects up under distinct heads, and report upon them in succession; by which the House might be enabled, not only to form its judgment more easily on each subject, as separately submitted to it, but also more readily to give effect to its judgment, when formed, by such legislative enactments as in the respective cases might seem expedient. . . .

[Reference is made to 'the excessive accumulation and complexity' of the laws of

[1] *Parl. Papers*, 1820 (300), vol. ii, pp. 367–79. See also the petition presented by A. Baring and others in 1820, *Hansard*, vol. i, 179–82.

trade, amounting to some 2,000 in all. A revision and simplification of 'this vast and confused mass of legislation' would free British trade from heavy encumbrances.]

The commercial restrictions, to which the intercourse of the United Kingdom with foreign states is subjected, may be classed under three heads; first, those intended for the improvement of its navigation and the support of its naval power; secondly, those which arise out of the necessity of drawing from commerce, in common with other resources, a proportion of the public revenue; and, lastly, those necessary to the protection afforded to various branches of our domestic industry, for the purpose of securing to them the internal supply of the country, and the export to its several colonies.

The head of restrictive protections, to which the attention and inquiry of your Committee has been in the first instance directed, is, that which comprehends the Acts intended for the support and extension of British shipping. . . .

Whatever may have been the principles which dictated, or the political benefits that have accrued to the country from the Acts passed in the 12th, 13th, and 14th of Charles the Second, and known by the name of the Navigation Law and Statute of Frauds, it can scarcely be denied that they have a tendency to cramp the operations of commerce, and to impede the growth of that opulence which may arise from foreign trade.

The provisions of these laws apply, first, to the regulation of the trade with Asia, Africa, and America; and the territories of the Grand Seignior and the Duke of Muscovy.—Secondly, to that of the trade with the other states of Europe.

The leading principle in reference to the former, is, that no goods the produce of Asia, Africa, or America, and the territories specified, shall be imported into this kingdom, but directly from the place of their growth, and exclusively in British ships, owned by British subjects, and navigated in a certain proportion by British seamen. To the latter, that goods enumerated, coming from different countries of Europe, shall be imported either in ships built in the states of which they are the produce, and owned and navigated by their subjects, or in ships of Great Britain; except from Germany and the Netherlands, which are by name partially excluded. From these last-mentioned countries certain articles are prohibited from being imported into Great Britain, in any ship whatever, under the penalty of confiscation of the ship and cargo.

A just respect for the political wisdom from which the enactment of the Navigation Laws originated, and a sense of the great national advantages derived from them in their effects on the maritime greatness and power of the Kingdom, have rendered them objects of attachment and veneration to every British subject. Nor can your Committee suppose that any suggestions they may offer can lead to a suspicion of their being disposed to recommend an abandonment of

the policy from which they emanated; or to advise, in favour of the extension of commerce, a remission of that protecting vigilance under which the shipping and navigation of the kingdom have so eminently grown and flourished. The only question which, on this subject, they have entertained, is, whether the advantages hitherto enjoyed by our shipping might not be compatible with increased facilities afforded to trade, and its relief from some of the restrictions which the provisions of these laws impose upon it. They are convinced that every restriction on the freedom of commerce is in itself an evil, to be justified only by some adequate political expediency; and that every facility that can be extended to it is a benefit to the public interest, as leading, amidst the incalculable changes and accidents occurring in the circumstances of nations, and of society, to the certain consequence of laying open new means of exertion to mercantile ingenuity and enterprise, and disclosing to commerce new sources of eventual advantage, far beyond the power of human foresight distinctly to appreciate.

This being the admitted principle, it must be regarded as subject to all the precaution in its application, which interests embarked under the faith of existing laws, and a due consideration of the difficulties attending an extensive change in a long established, though defective system, ought prudentially to inspire. . . .

[It is stated that a committee set up by the Treasury has already suggested the simplification and consolidation of port dues.]

It has been suggested to your Committee, that an alteration in the law, favourable to the British ship-builder and ship-owners, might be usefully introduced. A British ship becoming the property of a foreigner, under the present provisions of the law, forfeits the British character it possesses, without becoming capable of acquiring, in respect to the trade with this country, that of a ship of the foreign state to which it is sold. This appears to be a restriction on the sale and building of ships in the United Kingdom, wholly unsupported by any object of public utility; and your Committee are aware of no reason to prevent their recommending to the adoption of the House, the suggestion received by them that British-built ships, or ships condemned as prize to Great Britain, should, if deprived of their British character and registry by sale to a foreigner, be permitted to acquire the character of ships of any country, of the subjects of which they may afterwards become the property: but as it appears to your Committee that a resumption of the character of a British ship, after having been in the possession of foreigners and undergone repairs in foreign ports, may open a door to fraud, and be injurious to the British ship-builder, they are of opinion that the permission above stated should be guarded by a prohibition against a ship once sold to a foreign state, recovering a British registry under any other circumstances but those of capture and regular condemnation as a prize to Great Britain. . . .

At an early period of the ensuing session of Parliament, they hope to be able to propose to the House the measures in their opinion best calculated to carry into execution the recommendation of this Report; and to resume and pursue their inquiries into those branches of their investigation which they have now left unexamined, on the same principles which have thus far governed them in the performance of the duty assigned to them. To the judicious and prudent application of these principles, your Committee look (under the pleasure of the House) for the safe removal of all such restrictions on the freedom of our commerce and our intercourse with foreign nations, as the peculiar circumstances of our situation, the protection due to great interests embarked under the public faith, and the compacts into which the country may have entered, either with its own subjects, or with other states, do not render it indispensable to preserve. If in their recommendations anything should be found more favourable to foreign interests, than may seem consistent with the severe principles of our existing commercial system (which may to some be an objection to the suggestions humbly offered in the present Report), your Committee beg to observe, that without now questioning the wisdom of a restrictive or protective policy, as necessary to the state of our trade at an earlier period of our history, as applicable to the circumstances of the present day, it appears very doubtful. The time when monopolies could be successfully supported, or would be patiently endured, either in respect to subjects against subjects, or particular countries against the rest of the world, seems to have passed away. Commerce, to continue undisturbed and secure, must be, as it was intended to be, a source of reciprocal amity between nations, and an interchange of productions, to promote the industry, the wealth, and the happiness of mankind. If it be true that different degrees of advantage will be reaped from it, according to the natural and political circumstances, the skill and the industry of different countries; it is true also, that whatever be the advantages so acquired, though they may excite emulation and enterprise, can rouse none of those sentiments of animosity, or that spirit of angry retaliation, naturally excited by them, when attributed to prohibitions and restrictions, jealously enacted and severely maintained.

Your Committee are, however, sensible, that at once to abandon the prohibitory system, would be of all things the most visionary and dangerous: it has long subsisted; it is the law not only of this kingdom, but of the rest of the European world; and any sudden departure from it is forbidden by every consideration of prudence, safety and justice. No such sudden change is in the contemplation of your Committee, nor indeed the adoption of any change, without the utmost circumspection and caution. But they still feel, that a principle of gradual and prospective approximation to a sounder system, as the standard of all future commercial regulations, may be wisely and beneficially

recommended, no less with a view to the interests of this country, than to the situation of surrounding nations. Upon them the policy of Great Britain has rarely been without its influence. The principles recognized and acted upon by her, may powerfully operate in aiding the general progress towards the establishment of a liberal and enlightened system of national intercourse throughout the world, as they have too long done in supporting one of a contrary character, by furnishing the example and justification of various measures of commercial exclusion and restriction. To measures of this nature her pre-eminence and prosperity have been unjustly ascribed. It is not to prohibitions and protections we are indebted for our commercial greatness and maritime power;—these, like every public blessing we enjoy, are the effects of the free principles of the happy constitution under which we live, which, by protecting individual liberty, and the security of property, by holding out the most splendid rewards to successful industry and merit, has, in every path of human exertion, excited the efforts, encouraged the genius, and called into action all the powers of an aspiring, enlightened, and enterprising people.

32

REPORT FROM A SELECT COMMITTEE ON THE FOREIGN TRADE OF THE COUNTRY

9 March 1821[1]

. . . The policy most advantageous to the country, as far as the mere supply of timber is concerned, would be to obtain it of the best quality, and at the lowest price, without reference to the quarter from whence it might be derived; and the course of your Committee has been to inquire, first, to what extent the operation of this policy is infringed by the system of duties now in force; in the next place, to examine how far the limits imposed on its operation are sustained by adequate considerations of expediency; and lastly, to determine whether, by the adoption of any and what alterations, the duties might be rendered, as far as circumstances allowed, more consistent with the regard due to the principle on which this policy proceeds, and generally more beneficial to the commercial interests of the United Kingdom.

It appears that previously to the imposition of the duties in 1809–10,

[1] *Parl. Papers*, 1821 (186), vol. vi, pp. 4–11. For the development towards freer trade and imperial preference instead of imperial monopoly, see Wallace's speech (*Hansard*, 1821, vol. v, 1289–99) and Huskisson's collected *Speeches* (Lond. 1831), especially his defence of the new reciprocal system (*Hansard*, 1825, vol. xii, 1196–1222). Statutes worthy of careful study include 3 Geo. IV, caps. 44 and 45 regulating trade between the West Indian and N. American colonies, and 4 Geo. IV, cap. 77, enabling reciprocal preferences; also 6 Geo. IV, caps. 73 and 114.

the supplies of wood required for the consumption of the country were principally furnished by the northern states of Europe; that subsequently to that period, a great and gradually increasing proportion of its supplies has been drawn from the British North American colonies; that at present the use of the timber from the north of Europe, owing to the price it bears in comparison to American timber, is in a great measure confined to the higher and more valuable description of buildings, and to purposes for which increased strength in bearing is necessary or desirable; that for less substantial buildings, and for the inferior purposes to which wood is applicable, the American timber and deals have been generally brought into consumption, and although the Red Pine of America (of which the quantity is relatively small), is said by several witnesses to be equal in quality to the Fir from the north of Europe, yet the Yellow Pine, of which the great importation consists, is stated, when used in this country, to be inferior to it, except for particular purposes and in particular situations, from its supposed greater liability to dry rot, and comparative deficiency in strength and durability. At the same time there is reason to believe, from other evidence, that much prejudice subsists on this head, and that in Lancashire, where the Yellow Pine has been a longer time in general use than in any other part of the kingdom, as well as in the neighbourhood of Shields, its qualities are considered as more valuable than they are generally esteemed; and there is repeated testimony that, when used in America, both in the construction of ships and buildings, it has been found to be free from the particular defect alluded to, and of a durability equal to that of the best timber of Europe. . . .

The amount of the duty levied on Baltic timber, and the increased price which, under the operation of that duty, the American timber must have borne, may be considered as a bounty paid by the consumers of the United Kingdom for the benefit of the North American colonies, and the support of the superfluous shipping, to which the transport of their wood is said to afford the only employment.

The prudential considerations by which the application of the same principle appear to have been limited, are, the danger incident to want of competition, from the exclusion of colonial timber, and from a reliance for our supplies on a single source: the possible failure of supply from the north of Europe, in a moment of necessity; the maintenance and employment of our shipping, and the effect that might be produced on the various interests connected with our American trade, and the capital embarked in the establishments for carrying it on. The same prudential considerations, in the opinion of your Committee, at present forbid any recommendation on their part, tending entirely to take away the legislative protection hitherto enjoyed by the colonial trade; but, as the extent of that protection is admitted on almost all hands to exceed the necessary bounds, they

have directed their attention to ascertain to what amount that protection, and in what mode, should be prospectively continued. . . .

Your Committee do not think it improbable that a diminution of the export of wood from the British North American colonies might, on the other hand, be experienced; some diminution, as far as the trade is concerned, would be desirable, and indeed can hardly fail to take place, even independent of any alteration of duties, owing to the excess beyond the consumption of the country, to which the importation has been, by peculiar circumstances, recently enlarged. . . .

Your Committee see no reason whatever to imagine that the alteration which they have in contemplation would be attended with the effect of depriving the American colonies of their due participation in the benefits of the wood trade, although it might have a moderate and temporary tendency to the reduction of the importations from thence, and so far may, in the first instance, and for a given period, affect the interests of the shipowners. In fact, the interest of the shipowners is the one most concerned in the present question; while that of the colonies themselves, important as it is, is still a comparatively subordinate one. Your Committee fully concur in the wisdom of that policy which has rendered the British shipping a favourite object of the attention and vigilance of Parliament; but they cannot feel that, beyond the extent which may be rationally deemed essential to the safety and defence of the country, every other consideration is to be sacrificed to that object, or that it is consistent with the public welfare, that the care due to the interests of our merchants and manufacturers, and every regard to our foreign commercial relations, should be foregone, for the purpose of supporting by artificial means a mercantile marine in a state of magnitude, at which it has arrived from accidental causes alone, and which is neither conducive to the commercial prosperity, or essential to the political security of the nation; and in which (unless by the opening of new sources of employment, or the extension of those existing) the regular trade of the country is incapable of maintaining it. Of this, the great depreciation which all property in shipping is represented to have undergone, appears to your Committee to furnish sufficient proof.

The degree in which the shipping may be affected by any charge that is adopted, must depend upon the influence which such change is likely to have in reducing the export of wood from the colonies. From the evidence of persons conversant in the uses to which wood is applied, your Committee collect, that for many of those uses, the wood imported from America is either indispensable, or preferable, or as good, or nearly so, as that brought from the north of Europe. In reference to the first description are mentioned masts for ships of large dimensions, both ships of war and the more valuable description of merchant-men, which can only be found in our North American colonies, and which must therefore form a considerable article of

import into this country under almost any state of duties. To the second, all articles in which facility of working, and an extensive surface and freedom from knots is required, and to whatever extent pine timber for these purposes is employed, the American wood even at equal prices would have a preference. To the last, the application to all inferior purposes, as for packing chests, and various objects in the interior of houses, or in situations where it has the benefit of a free circulation of air: for such uses it may be fairly supposed, and indeed it is more than once admitted, that the consideration of mere cheapness would cast the balance in favour of the produce of our American provinces.

The aggregate of these applications of timber form a very considerable proportion of the general consumption of the country; and it appears to your Committee, that it would require something little short of equality in point of price with those of the Baltic, to exclude the timber and deals of the British colonies from importation for these purposes. Nor must it be forgotten that the experience, obtained within the last few years, of the qualities and value of the American wood, which has had the effect of removing much of the prejudice that prevailed against it, in so far must probably have contributed to induce a permanent extension of its consumption. . . .

Your Committee next proceeded to consider in what mode that alteration of duty should be effected, whether by reduction of duty on Baltic timber, by an imposition of duty on American, or by a combination of both; and the result of their consideration has been, a preference of the last mode of producing the relative approximation they have recommended, in the prices of the respective descriptions of timber, by the imposition of 10*s*. on the American timber, and a corresponding reduction from the duty on that imported from the north of Europe; this they conceive to be most effectual to produce the advantages they have in contemplations, by removing the excessive inequality of the present system, facilitating our intercourse with foreign nations, and marking our desire, as far as circumstances will permit, to adopt more liberal principles than those by which our commerce with them has been hitherto governed. . . .

One only further recommendation has suggested itself to your Committee, which, in concluding their Report, they are desirous of offering to the House. It has appeared in the evidence, that a great proportion of the timber which is imported from the province of Canada, is the growth of the United States, and has been permitted to be received into that province free from duty, and has from thence been exported to the United Kingdom, with all the benefits and immunities conceded to the produce of the British territory. To obviate the objection to which this practice appears to your Committee to be liable, they are of opinion, that with every exportation of timber from the British provinces in North America, a certificate of its being the

produce of those provinces should be required, and that timber imported without such certificate should be hereafter charged with the same rate of duty as would be payable on it, if imported directly from a foreign state. . . .

33

ORDER IN COUNCIL, 5 November 1830[1]

At the Court of St. James's.

Present: The King's Most Excellent Majesty in Council.

Whereas, by a certain Act of Parliament, passed in the 6th year of the reign of His late Majesty King George the Fourth, entitled 'An Act to regulate the trade of the British possessions abroad',[2] after reciting that, 'by the Law of Navigation, foreign ships are permitted to import into any of the British possessions abroad, from the countries to which they belong, goods the produce of those countries, and to export goods from such possessions, to be carried to any foreign country whatever, and that it is expedient that such permission should be subject to certain conditions;' it is, therefore, enacted, 'that the privileges thereby granted to foreign ships shall be limited to the ships of those countries which, having colonial possessions, shall grant the like privileges of trading with those possessions to British ships, or which, not having colonial possessions, shall place the commerce and navigation of this country, and of its possessions abroad, upon the footing of the most favoured nation, unless His Majesty, by His Order in Council, shall, in any case, deem it expedient to grant the whole or any of such privileges to the ships of any foreign country, although the conditions aforesaid shall not in all respects be fulfilled by such foreign country:'

And *whereas*, by a certain Order of His said late Majesty in Council, bearing date the 27th day of July, 1826, after reciting that the conditions mentioned and referred to in the said Act of Parliament had not in all respects been fulfilled by the Government of the United States of America, and that, therefore, the privileges so granted as aforesaid by the Law of Navigation to foreign ships could not lawfully be exercised or enjoyed by the ships of the United States aforesaid, unless His Majesty, by His Order in Council, should grant the whole or any of such privileges to the ships of the United States aforesaid: His said late Majesty did, in pursuance of the powers in Him vested by the said Act, grant the privileges aforesaid to the ships of the said United States; but did thereby provide and declare that such

[1] P.C. 2/211. Printed in *Parl. Papers*, 1830–1, vol. xvi, pp. 296–7, and in *Public Documents of the Senate of the United States, at the second session of the twenty-first Congress*, 1830, vol. i, p. 60.

[2] See Navigation Acts of 1826: 6 Geo. IV, caps. 105 and 109.

privileges should absolutely cease and determine in His Majesty's possessions in the West Indies and South America, and in certain other of His Majesty's possessions abroad, upon and from certain days in the said Order for that purpose appointed, and which are long since passed:

And *whereas*, by a certain other Order of His said late Majesty in Council, bearing date the 16th of July, 1827, the said last mentioned Order was confirmed: And *whereas*, in pursuance of the Acts of Parliament in that behalf made and provided, His said late Majesty, by a certain Order in Council bearing date the 21st day of July, 1823, and by the said Order in Council bearing date the 27th day of July, 1826, was pleased to order that there should be charged on all vessels of the said United States which should enter any of the ports of His Majesty's possessions in the West Indies or America, with articles of the growth, produce, or manufacture of the said States, certain duties of tonnage and of customs therein particularly specified:

And *whereas* it hath been made to appear to His Majesty in Council that the restrictions heretofore imposed by the laws of the United States aforesaid, upon British vessels navigated between the said States and His Majesty's possessions in the West Indies and America, have been repealed, and that the discriminating duties of tonnage and of customs, heretofore imposed by the laws of the said United States upon British vessels and their cargoes entering the ports of the said States from His Majesty's said possessions, have also been repealed, and that the ports of the United States are now open to British vessels and their cargoes, coming from His Majesty's possessions aforesaid:—His Majesty doth, therefore, with the advice of His Privy Council, and in pursuance and exercise of the powers so vested in Him as aforesaid, by the said Act, so passed in the 6th year of the reign of His said late Majesty, or by any other Act or Acts of Parliament, declare that the said recited Orders in Council of the 21st day of July, 1823, and of the 27th day of July, 1826, and the said Order in Council of the 16th day of July, 1827 (so far as such last mentioned Order relates to the said United States), shall be, and the same are, hereby respectively revoked:

And His Majesty doth further, by the advice aforesaid, and in pursuance of the powers aforesaid, declare that the ships of and belonging to the said United States of America may import from the United States aforesaid, into the British possessions abroad, goods the produce of those States, and may export goods from the British possessions abroad,[1] to be carried to any foreign country whatever.

And the Right Honourable the Lords Commissioners of His

[1] The privileges given to colonial goods under the British tariffs were still, of course, an essential part of the system. The British Possessions Act (3 & 4 Will. IV, cap. 59) consolidated Huskisson's work on the basis of his Acts of 1825 (6 Geo. IV, caps. 73 and 114).

Majesty's Treasury, and The Right Honourable Sir George Murray,[1] one of His Majesty's principal Secretaries of State, are to give the necessary directions herein, as to them may respectively appertain.

JAS. BULLER.

B. MODIFICATIONS IN THE OLD COLONIAL SYSTEM: CAPE COLONY AND MAURITIUS

34

CAPE COLONY: FREDERICK KERSTEINS: MEMORANDUM ON THE CONDITION OF THE COLONY

September 1795[2]

One of the first and indispensable duties of man is the love of his country. Animated with that sentiment I take the liberty to lay before your Excellencies a few hints on the subject of my country, and I hope your Excellencies will give me credit that I am in this step actuated neither by animosity against our former rulers or the legitimate Government of the Dutch East India Company, nor by any selfish motive, or any other than that eternal and sacred principle.

This colony has for several years been on the decline, and rapidly approaching its annihilation. The intolerable shackles laid on trade, the monopoly, the paper currency, the stamp taxes of all description, and above all the Jacobin mania, are the chief causes; and I may venture to say that nothing less than a revolution could have saved it. The insurrection for instance which took place in the interior parts of the country (at Grave Reinet)[3] is a sufficient proof of my assertion. The insurrection at Grave Reinet seemed to proceed from a dislike to the Dutch Company's monopolies as well as from a ridiculous notion that, like America, they could exist as an independent state. But where are the resources? The population of this colony does not exceed 21,000 inhabitants, the land is barren, and the enemies with which the people are surrounded are numerous. Government had lost its respect and such was the oppression of the inhabitants that every prospect of reconciliation had vanished. It is now two months since Government has sent a deputation to Grave Reinet—and that

[1] *Sir George Murray*, Quartermaster-General to the Duke of Wellington in the Peninsula, had been Lieut.-General in Canada in 1814 and Commander-in-Chief in Ireland 1825–8. He became Secretary of State for the Colonies in Wellington's administration in May 1828.

[2] *R.C.C.*, vol. i (1897), pp. 167–9. *Kersteins* was a Dutch Cape colonist who had left the Cape and had come to England. He returned to Cape Colony in 1810.

[3] See below, pp. 505 ff.

the Commissioners were obliged precipitately to leave the country, under the most imminent danger of losing their lives. Want of authority on the part of our Government is the chief reason that the Cape was so easily reduced. Everybody would command here, and nobody would obey—it is then no longer surprising if we lost a colony, which although unable to secure its Goverment against the invasion of a superior enemy, might yet have opposed him a more effectual and durable resistance. The Cape is weak by nature, ill fortified, and has been still worse defended. As in the mother country it was sufficient that one proposed for his neighbour to reject; it is thus that they also lost their country. The inhabitants are for the greater part impoverished—this poverty has disposed them for disaffection and revolt as appears again by the example of Grave Reinet. Those unhappy people are dispersed over an expansive surface and live at a considerable distance from each other—on one side they are incessantly harassed by the Bossies Manns (a species of Hottentots) and on the other they are obliged to struggle under the oppressive yoke of their own Government.

The object of all merchants is gain—it was then consistent that they, the [Dutch] East India Company, should govern the colony more with an eye to their own interest, than to that of the people.[1] . . .

35

CAPE COLONY: MINUTE OF THE COMMITTEE FOR TRADE, 13 December 1796[2]

Read. Order of His Majesty in Council of the 7th instant, referring to this Committee a letter from Mr. Secretary Dundas to the Lord President, with a draft of a Commission proposed to be given to the Earl of Macartney as Governor of the settlement of the Cape of Good Hope in South Africa.

Ordered that the said draft of Commission be referred to His Majesty's Advocate, Attorney and Solicitor General, to take the same into their consideration, and report their opinion thereupon; observing that the Government intended thereby to be established is merely provisional, and that the question of the future Government of the Cape is to be reserved for the consideration of His Majesty or of Parliament, as circumstances may require; and that it is not their Lordships' intention that as far as relates to the commerce carried on in the ports of the Cape, the laws of navigation should attach, that

[1] He proceeds to enumerate the chief products of the colony and to list the discontents. Among the demands of the Graaff Reinet rebels was a claim to 'the freedom to sell all their products where they please and a free trade in general'.

[2] B.T. 5/10, pp. 284–5. The Order in Council dated 28 December 1796 is printed in *R.C.C.*, vol. ii (1898), pp. 1–3.

ships belonging to countries in amity with His Majesty should be prevented from entering into the said ports and importing and exporting thereto.

36

CAPE COLONY: ORDER IN COUNCIL

11 June 1806[1]

At the Court at the Queen's Palace . . .

. . . And whereas during the time the said Settlement, with the Territories and Dependencies thereof, were in the possession, and under the Government of the States General of the United Provinces, or of the Honourable the General East India Company in the Netherlands, it was usual to admit the ships and vessels belonging to the subjects of countries in amity with the said United Provinces into the ports of the said Settlement, and of the Territories and Dependencies thereof, for repair and refreshment; and with that view, to permit the said ships and vessels to carry on trade with the inhabitants of the said Settlement and of the Territories and Dependencies thereof; His Majesty is hereby pleased to order, by and with the advice of His Privy Council, in pursuance of the powers vested in His Majesty by the above recited Act,[2] and it is hereby ordered, that it shall be lawful until further order, for all ships and vessels belonging to His Majesty's subjects as well as for all ships and vessels belonging to the subjects of any country or state in amity with His Majesty, to enter the ports of the said Settlement of the Cape of Good Hope, and of the Territories and Dependencies thereof, and to carry on trade and traffic with the inhabitants of the said Settlement and of the Territories and Dependencies thereof, and to import and export to and from the ports of the said Settlement and of the Territories and Dependencies thereof, any goods, wares, or merchandize whatsoever, subject to the following exceptions, and subject also to such duties, rules, regulations and restrictions as shall be established by His Majesty, or by the Governor of the said Settlement, and of the Territories and Dependencies thereof, by virtue of authority derived from His Majesty, and, in the meantime, subject to such duties, rules, regulations, and restrictions as subsisted and were in force, before, and at the time of the conquest of the said Settlement by the arms of His Majesty, with such alterations as have been since made under the authority of the Commander in Chief of His Majesty's Forces at the said Settlement. But it is His Majesty's pleasure that no goods, wares, or merchandize which shall be imported into the said Settlement, or

[1] P.C. 2/170, pp. 353–5.
[2] This Order was issued under the authority of 46 Geo. III, cap. 30.

the Territories or Dependencies thereof, from any part of His Majesty's Dominions, shall be subject to any duty.

And it is His Majesty's pleasure that no goods, wares, or merchandize, the growth, produce, or manufacture of the countries to the eastward of the Cape of Good Hope be imported into the said Settlement or the Territories or Dependencies thereof, except by the United Company of Merchants trading to the East Indies; And that no such goods, wares or merchandize be permitted to be exported from thence, except for sea stores only, or by the United Company of Merchants of England trading to the East Indies, or by their licence.[1]

But it is His Majesty's pleasure that nothing in this Order contained shall extend to prevent ships or vessels employed in the Southern Whale Fishery, from carrying on the same in such and the same manner as might have been done if this Order had not been made. . . .

And it is His Majesty's pleasure, that the trade and commerce to and from the said Settlement and the Territories and Dependencies thereof, shall be subject to such of the laws of trade and navigation as would have affected the same if this Order had not been made, except so far as such laws are contrary to this present Order. And the Right Honourable the Lords Commissioners of His Majesty's Treasury, and the Lords Commissioners of the Admiralty are to give the necessary directions herein as to them may respectively appertain.[2]

[1] In April 1811 the East India Company sanctioned a direct trade between the Cape and New South Wales in the produce of either colony, and between the Cape and Ceylon in Ceylonese ships not exceeding 3 a year of less than 300 tons (*R.C.C.*, vol. xxiv (1904), p. 450). Even after the limitation of the Company's monopoly in 1813, trade between the Cape and Britain remained the exclusive concern of the Company; and by an Order-in-Council of 24 September 1814 (*R.C.C.*, vol. x (1902), p. 188) consequent on the renewal of the Company's charter the year before, the Cape was subjected to the normal incidence of the Navigation Laws and to various restrictions which had not previously been applied. In September 1823 goods of Eastern origin, re-exported from the Cape, were put on an equal footing with goods exported to Britain from the East direct (*R.C.C.*, vol. xvii (1903), p. 91).

[2] The East India Company, however, made strong representations against the free trade permitted by this Order within the limits of their monopoly. By direction of the Privy Council a Proclamation of Lord Caledon on 18 September 1807 (*R.C.C.*, vol. vi, p. 203) announced that after six months' grace a 15 per cent. *ad valorem* duty would be imposed on the importation of all foreign goods, and a 5 per cent. duty on foreign goods in British vessels, while British goods in British vessels remained duty-free. A further Order-in-Council in October 1811 terminated the permission granted since 1809 to ships of friendly nations to trade with the Cape in European and colonial goods, even though this trade had been under heavy duties (see *R.C.C.*, vol. vii, pp. 153–6).

37

CAPE COLONY: MINUTE OF THE COMMITTEE FOR TRADE, 14 April 1817[1]

Read. Memorial of the merchants of London trading to the Cape of Good Hope, praying that the duties on wines the produce of that settlement should not be increased etc.[2]

Read. Copies of two memorials of the manufacturers of British wines presented to the Lords of His Majesty's Treasury, relative to the duties on Cape wines.

Read. Statement on behalf of the manufacturers of and dealers in sweets on British made wines. . . .

[In 1813 the duties on Cape wines had been lowered to about one-third. The resulting increase in the Cape wine trade had given rise to protests, not only from the port and madeira wine merchants, but also from the manufacturers of sweetmeats, who claimed that such competition was injuring their own products. The Treasury had proposed an increase in the import duty on Cape wines which, after further consideration, was resisted by the Committee for Trade.]

Under these circumstances therefore although their Lordships are still of opinion that the makers of sweets are entitled to a favourable consideration of their case the time does not yet appear to have arrived when relief can advantageously be given them by increasing the duty on Cape wine. But it appears to their Lordships that the same object might be attained by a reduction of half the direct duty now payable upon the tun of sweets.

The Lords of the Committee are not aware of any objection to this proposition except the possible loss to the revenue; but when it is considered that the total amount of revenue derived from the duties on sweets in the last year did not amount to £12,000; and that the consumption of the article would probably be increased if the duty were diminished, their Lordships do not apprehend that the revenue would suffer by such an arrangement; and they are further strongly of opinion that if the trade of the Cape of Good Hope should continue to increase as it appears to have done during the last three years, any temporary loss of revenue which might follow from a diminution of the duty upon sweets would be more than compensated by the increasing revenues of the Cape of Good Hope which might either be remitted to the Exchequer of this country, or might be applied to the payment of some of the expenses of that colony which now fall upon the mother country.

Transmit copy of this minute to the Lords of the Treasury.

[1] B.T. 5/25, pp. 455-8. See also *R.C.C.*, vol. xi (1902), pp. 250, 278, 290, and for Somerset's arguments against increased duties, see *R.C.C.*, vol. xii (1902), pp. 49–50.

[2] Protests had been made earlier: see Courtenay to Goulburn 28 February 1815, *R.C.C.*, vol. x, p. 253.

38

MAURITIUS: MINUTES OF THE COMMITTEE FOR TRADE, 23 November 1816 and 14 May 1819

23 November 1816[1]

Read. Letter from H. Goulburn Esq. transmitting copy of a despatch from Governor Farquhar dated 1st June last relative to the operation of the navigation laws in regard to the trade of the Island of Mauritius and its dependencies.

Although my Lords have at different times felt themselves under the necessity of expressing an opinion of the illegality of admitting foreign vessels from Europe to trade with the Mauritius, they never doubted that Mr. Farquhar was actuated by a laudable desire to promote the interest of the possession over which he was appointed to preside: as little did they question the importance of an unlimited trade to the commercial prosperity of that Island. But when it was represented to their Lordships that French vessels were freely admitted there from Europe and applications were made to them for licence to enable a British vessel to export a cargo from Bourdeaux to the Mauritius, they could return no other answer to the application than that the law did not authorize the Privy Council to grant any such licence; and as it would have been manifestly unjust to grant to foreign vessels a privilege which the law denied to those of our own country, my Lords were compelled to request that the Secretary of State for the Colonies would explain to the Governor of the Mauritius the irregularity of the practice which prevailed in that Island. It is true that both the Governor and Mr. Smith seem to doubt the application of the navigation laws to a possession situated like the Mauritius, but my Lords would not have taken upon themselves to admit the existence of such a doubt as a ground for hastily abandoning a principle of general policy, which has ever been considered as essential to the maintenance of our maritime superiority, and a rigid adherence to which, at the termination of the war was pressed upon their Lordships as absolutely necessary to preserve the shipping interests of the country, from great danger, if not from ruin: and however strongly considerations of a local nature may impress themselves upon the minds of the Governors of distant provinces, it is the duty of their Lordships to take care that partial views of local interests are not suffered to destroy an established system of general policy. There is scarcely an argument urged by Mr. Farquhar and Mr. Smith in favour of an unrestricted trade at the Mauritius, which is not equally applicable to every other possession of the British Crown whether in

[1] B.T. 5/25, pp. 178–84. Farquhar had opened the ports in Mauritius to neutrals as had Lord Charles Somerset at the Cape, but the Committee for Trade recognized no need for 'free ports', save in the West Indies.

the Western Hemisphere or in the Indian seas; but after a war of such protracted duration, in which commerce and navigation had undergone the greatest variety of changes, my Lords felt the strongest conviction that a permanent departure from the ancient navigation policy of the country ought not to be adopted without the most deliberate consideration; and that its progress if adopted could not be too gradual and cautious. In this view the Legislature seems to have coincided, and the only point in which that system has yet been altered, has been to allow a more free intercourse between our possessions in America whether insular or continental, and the Island of Malta.

But that great branch of our commerce with which the Mauritius is more particularly connected viz. the East India trade, has not yet been opened to the same extent; and whilst British subjects continue to be debarred from a direct trade between our East India possessions and continental Europe, it is at least a matter of doubt how far it would be just or politic to allow foreign nations to carry on indirectly through the Mauritius that trade which British subjects could not carry on directly from the more ancient British possessions in the East. So long therefore as this question remained in suspense, my Lords did not feel themselves at liberty to sanction the course adopted by Mr. Farquhar: the system itself might be wise, but at least the decision would have been premature.

These are some of the considerations which induced my Lords to express themselves as they did when this subject was originally brought under their notice: but there is still another question which it is not immaterial to consider in determining to what extent the trade of the Mauritius ought to be opened. The intercourse to which the greater part of Mr. Farquhar's reasoning applies is that which under his entrepôt system would be carried on directly between that Island and France; but as he admits the produce of the Mauritius itself to be comparatively unimportant, its principal articles of export to France would necessarily be the valuable produce of Bourbon in return for wine and other such articles brought from France: that this trade would be beneficial to the Mauritius cannot be denied, but Mr. Farquhar seems never to have considered the mode in which this traffic might affect our West India possessions by facilitating the introduction into Europe of Bourbon sugar and coffee, in direct competition with similar articles from our own colonies, and it would be very little satisfactory to a West India colonist complaining of the injurious tendency of this traffic, to be answered that without it the inhabitants of the Mauritius could not obtain their wine at so cheap a rate as they otherwise might. Mr. Farquhar seems indeed to apprehend that if this trade were not carried on through the Mauritius, and so far with the aid of British capital, all the advantages of it would fall into the hands of the French and enrich Bourbon at the expense of Mauritius. If however we can judge of the opinion of the

Government of the Cape of Good Hope, as well as from individuals trading or connected with that colony, of the great importance of relaxing for a time in regard to the Cape some of the restrictions of the navigation and colonial system. I am induced by two recent occurrences to take this opportunity of again soliciting Earl Bathurst's attention to this subject. The first of these is the determination of His Majesty's Government to encourage emigration from the United Kingdom to the Cape, an experiment the success of which must greatly depend upon the enlargement of the trade as well as of the cultivation of the colony.

These objects and the general prosperity of the settlement would be materially forwarded by the establishment of the Cape as an entrepôt between the countries to the eastward and those parts of foreign Europe and America to which British ships cannot legally resort, and of which we cannot force the supply through the United Kingdom. No new privileges given to the trade in British vessels between the Cape and foreign countries would of themselves lead to the supply of those countries with eastern products, through that or any other British possession in British vessels. Considerable privileges of this nature now actually exist, but they are rendered unavailing by the regulations of other countries which will not give facilities to relaxations on our part calculated solely for our benefit. We cannot at once maintain in our colony a restrictive policy with regard to navigation and an enlarged system of commercial intercourse.

This remark, generally true, is doubtless peculiarly applicable to the Cape considered as an entrepôt, inasmuch as the merchandize of which it is proposed to permit the exportation from the Cape in foreign vessels may now, under our own laws, be carried at once from the place of its production by foreigners in their own vessels to their respective countries. This case therefore is entirely unaffected by any of the general reasonings upon which Great Britain has confined the exportation of the produce of her foreign possessions to her own ships.

It is the opinion indeed of many intelligent persons acquainted with the course of the foreign trade with India, that many vessels which are now obliged to go to India would, if there were a depôt for Indian goods at the Cape, end their voyage there, a result which, if the increase of foreign vessels in the Indian seas be justly a source of apprehension, it would doubtless be very desirable to effect.

With respect also to her own very limited produce, as the Cape has not the protection against the competition of foreign produce which other colonies enjoy, there appears no reason for subjecting her to the ordinary colonial restrictions.

The other consideration by which I am induced to press this subject upon Lord Bathurst's attention at present is the issue of the

Order of the Prince Regent in Council of the 25th May last, whereby great privileges with respect to its intercourse with foreign nations, in foreign as well as in British vessels, were given to the Island of Mauritius.

I will venture to submit with great deference that nothing in the situation of the Mauritius appears either to justify or require a departure from our colonial system which would not lead to a similar departure as to the Cape, while it might reasonably be alleged that one of the dangers in which monopolies of colonial intercourse are supposed to have originated is to be apprehended in the very recently French colony of the Mauritius much more forcibly than at the Cape.

But it is not only as an example, or precedent, that the recent extension of favour to the Mauritius justifies the claim of the Cape to a similar indulgence. The enjoyment of that indulgence by the Mauritius deprives the Cape of the advantage of free competition, and tends to render nugatory, at least in regard to the produce of the East, the less extensive privileges which have been of late years conferred upon her.

Upon all these grounds I humbly submit to Lord Bathurst the propriety of recommending to the Prince Regent in Council the extension to the Cape of Good Hope of the provisions of the Order in Council of the 25th May last, with respect as well to the traffic in British vessels with foreign countries as to the traffic in foreign vessels with the countries to which they respectively belong.

41

CAPE COLONY: ORDER IN COUNCIL

12 July 1820[1]

At the Court at Carlton House. . . .

. . . His Majesty is pleased, by and with the advice of His Privy Council to order, and it is hereby ordered, that from and after the date of this present Order, British vessels arriving at any port of the settlement of the Cape of Good Hope or of the territories and dependencies thereof, from any country in amity with His Majesty, laden with any articles of the growth, production or manufacture of such country (excepting all articles composed of cotton, iron, steel or wool of foreign manufacture) shall be permitted to enter and land their cargoes, and dispose of the same in the said ports, subject to such duties as may be there payable thereon:

And it is further ordered that British vessels arriving as aforesaid

[1] P.C. 2/206. Printed in *R.C.C.*, vol. xiii (1902), pp. 181–4. The Order was issued under the authority of an Act of 1820 which gave the Crown the right to regulate the trade of the Cape and Mauritius until July 1825.

Government of the Cape of Good Hope, as well as from individuals trading or connected with that colony, of the great importance of relaxing for a time in regard to the Cape some of the restrictions of the navigation and colonial system. I am induced by two recent occurrences to take this opportunity of again soliciting Earl Bathurst's attention to this subject. The first of these is the determination of His Majesty's Government to encourage emigration from the United Kingdom to the Cape, an experiment the success of which must greatly depend upon the enlargement of the trade as well as of the cultivation of the colony.

These objects and the general prosperity of the settlement would be materially forwarded by the establishment of the Cape as an entrepôt between the countries to the eastward and those parts of foreign Europe and America to which British ships cannot legally resort, and of which we cannot force the supply through the United Kingdom. No new privileges given to the trade in British vessels between the Cape and foreign countries would of themselves lead to the supply of those countries with eastern products, through that or any other British possession in British vessels. Considerable privileges of this nature now actually exist, but they are rendered unavailing by the regulations of other countries which will not give facilities to relaxations on our part calculated solely for our benefit. We cannot at once maintain in our colony a restrictive policy with regard to navigation and an enlarged system of commercial intercourse.

This remark, generally true, is doubtless peculiarly applicable to the Cape considered as an entrepôt, inasmuch as the merchandize of which it is proposed to permit the exportation from the Cape in foreign vessels may now, under our own laws, be carried at once from the place of its production by foreigners in their own vessels to their respective countries. This case therefore is entirely unaffected by any of the general reasonings upon which Great Britain has confined the exportation of the produce of her foreign possessions to her own ships.

It is the opinion indeed of many intelligent persons acquainted with the course of the foreign trade with India, that many vessels which are now obliged to go to India would, if there were a depôt for Indian goods at the Cape, end their voyage there, a result which, if the increase of foreign vessels in the Indian seas be justly a source of apprehension, it would doubtless be very desirable to effect.

With respect also to her own very limited produce, as the Cape has not the protection against the competition of foreign produce which other colonies enjoy, there appears no reason for subjecting her to the ordinary colonial restrictions.

The other consideration by which I am induced to press this subject upon Lord Bathurst's attention at present is the issue of the

Order of the Prince Regent in Council of the 25th May last, whereby great privileges with respect to its intercourse with foreign nations, in foreign as well as in British vessels, were given to the Island of Mauritius.

I will venture to submit with great deference that nothing in the situation of the Mauritius appears either to justify or require a departure from our colonial system which would not lead to a similar departure as to the Cape, while it might reasonably be alleged that one of the dangers in which monopolies of colonial intercourse are supposed to have originated is to be apprehended in the very recently French colony of the Mauritius much more forcibly than at the Cape.

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shall be permitted to export to any such foreign country in amity with His Majesty, cargoes consisting of any articles of the growth, production or manufacture of the settlement of the Cape of Good Hope . . . or of any other articles which shall have been legally imported there, on payment of such duties as may be payable thereon:

And it is hereby ordered, that vessels belonging to the subjects of any foreign state in amity with His Majesty, which foreign state shall allow British vessels to carry on trade as aforesaid between the ports of such state and the settlement of the Cape of Good Hope . . . shall be permitted in like manner to import into the ports of the said settlement . . . from any port of the state to which such vessel shall belong, any articles of the growth, production or manufacture of such foreign state (excepting all articles composed of cotton, iron, steel or wool of foreign manufacture) and to dispose of the same in the ports of the said settlement . . . on payment of the same duties as shall be payable on the like articles when imported from such foreign state in British vessels . . . [provided that the duties on those foreign goods exported to the Cape in British vessels are no higher than on those exported in the vessels of that foreign state].

[Foreign vessels may export produce from Cape Colony on payment of an 8 per cent. *ad valorem* duty above the duty charged if exported to that foreign country in a British vessel: but if there is satisfactory proof that no higher duty is charged on Cape produce imported in British vessels into such a foreign state than on such produce in their own vessels, and that equal privileges of warehousing, &c., are granted to such produce brought in British ships, then no such *ad valorem* duty will be charged.]

It is however further ordered and declared that no foreign vessel allowed by the terms of this Order to export a cargo from the settlement of the Cape of Good Hope or the territories and dependencies thereof, shall be permitted to export such cargo to any of His Majesty's possessions, or to any other place than a port or place belonging to the state or power to which the vessel itself shall belong. . . .[1]

[1] The Order in Council for Mauritius was drawn up in identical terms. Five years later the Committee for Trade informed the Colonial Office that modifications in the Orders in Council were contemplated, but that in the interval the Governors of the Cape and Mauritius should be instructed to continue under the existing Order (B.T. 5/33, p. 348). The reduction of the duty on foreign wines led to protests from the Cape that same year; but the passing of the Reciprocity Act enabled Courtenay to urge that the limitations remaining in 1820 were now obsolete and that the special claims of the Cape, in its central position with regard to East–West trade, should be considered. A temporary commerce with the United States was permitted in July 1826 (*R.C.C.*, vol. xxvii, p. 161); but the new Order of April 1827 dealing with the trade of colonies within the limits of the East India Company's charter (Ceylon, Mauritius, Cape Colony, New South Wales, and Van Diemen's Land) authorized the continuation of all Orders already in force (*R.C.C.*, vol. xxxi (1905), p. 320).

C. THE FREE PORTS AND PENETRATION INTO FOREIGN COLONIAL MONOPOLIES

42

REPORT OF THE COMMITTEE FOR TRADE ON THE POSSIBILITY OF ESTABLISHING A FREE PORT IN BERMUDA, 31 May 1784[1]

[Although the Committee conclude that the exclusion of American shipping from the B.W.I. is unlikely to deter Americans from importing British manufactures or from continuing to supply British planters, they consider the idea of countering American retaliation by establishing a Free Port as an Anglo-American entrepôt.]

. . . But while the commerce of Great Britain with the United States is thus opening with a fair prospect of success, from every part of your Majesty's dominions, it has been a satisfaction to the Committee to find that foreign nations have made hitherto but languid and unprosperous efforts to avail themselves of those advantages, of which they thought they had deprived Great Britain. They either cannot or they will not give the Americans that credit, which the commerce of all new established countries necessarily requires. They have perhaps been the more cautious in this respect, on account of the many bankruptcies which their intercourse with America, as the Committee have been informed, has already occasioned. They have sent therefore supercargoes on board their ships with orders to sell only for ready money. Mr. Brook Watson,[2] your Majesty's late Commissary General in America, was told by gentlemen who came from Philadelphia to New York, that all the foreign ships which had arrived there, had brought supercargoes with them, who gave no credit to the Americans for any part of their cargoes—that they even carried out artificers necessary for the repairing their ships. All which had created great murmurs among the merchants and tradesmen of that place, and that after they had disposed of their cargoes, they had offered to receive American produce at one half of the usual freight, by which means the freighting of American ships was totally stopped, and their seamen out of employ. The Committee have received intelligence to the like purport from several other quarters. They have

[1] B.T. 5/1, pp. 250–3. The Committee of the Privy Council for Trade reported on 31 May on future policy on the regulation of trade with the U.S.; see pp. 258–65. Jamaica was then the only base for Free Port trade in the British West Indies. For the multiplication of free ports, see F. Armytage, *The Free Port System in the British West Indies, a Study in Commercial Policy, 1766–1822* (Lond. 1953).

[2] *Brook Watson*, merchant and official, had been Commissary-General to the army in Canada under Carleton in 1782 and entered Parliament in April 1784. Like Carleton he gave somewhat over-optimistic evidence to the Committee for Trade in March 1784 on the ability of British North America to supply the West Indies with those provisions previously obtained from the American colonies.

been informed also by eminent underwriters, that there are but few ships going from the ports of Holland or France to the United States, some are going from Ostend and several from Portugal with wine, but that these in general are American ships. That there are some others bound from America to France, chiefly from Maryland and Virginia, laden with tobacco. That it appears by the nature of their insurances that the Americans are not as yet determined to what ports it may be most for their benefit to carry their produce. That they are under great uncertainty with respect to their trade, and that they will probably come into the Channel and upon the coast, and await there till they are informed to what market it may be best for them to go, all which clearly shews that their trade has hitherto received no positive direction, and points out the necessity of our coming to some speedy decision on the future relative situation of this country, and the United States, in point of commerce.

Lest however the United States should through resentment proceed to prohibit or lay any material restriction on the trade carried on between the said states and the dominions of your Majesty in Europe or the West Indies, the Committee thought it right to consider whether any proper measure could be adopted to defeat their views in this respect. It occurred to them that the opening a Free Port at a certain distance from the coast of America was the measure, of all others, the best calculated for that purpose. By a Free Port the Committee mean a port free for the admission of American ships and of such enumerated articles of American produce only, as Great Britain, Ireland, and the Islands of the West Indies, may stand in need of, and with which they and your Majesty's remaining colonies in North America cannot sufficiently supply each other, which port might at the same time be made an entrepôt for such articles as the Americans would take in return, that is the manufactures of Great Britain and Ireland, and the produce of the British West India Islands.[1] The Island of Bermuda appears to the Committee well adapted for this design: it lies at a convenient distance from the coast of America; it is nearly centrical to all the ports of the United States; the navigation to and from it is open and easy at all seasons of the year; it is inhabited by a mercantile race of men, who build and navigate a great number of small quick sailing vessels, and who are perfectly acquainted with the harbours and creeks of North America. Having no produce of its own regulations may be more easily made for preventing contraband, and being an Island, with one or two small ports, those regulations may be more easily enforced. If the United States therefore

[1] The principal object of British Free Port policy was to smuggle British manufactures—and slaves—into foreign colonies, especially Spanish America. A free port in Bermuda could have been similarly used to smuggle British goods into the U.S., had restrictions been imposed. Failing that contingency, Bermuda would merely have provided American shippers with a door into the B.W.I. market. Its value as a base for the Spanish trade was recognized later.

should impose such restrictions on the commerce of Great Britain, as may lay it under any material difficulties, a measure like this may be proper and greatly contribute to defeat the object they have in view. But the Committee are far from thinking that the trade of this country, either in Europe or the West Indies is yet in such a situation as to make an expedient like this in the least degree necessary. All that has been hitherto stated in this report clearly proves the reverse. And they are sensible that there is great danger in adopting such a measure. It may not be possible by any restrictions so to guard a port situated at a great distance from the seat of Government, but that it will be made by the admission of the vessels of other nations into it the channel through which great quantities of prohibited goods and manufactures will be conveyed into your Majesty's Islands in the West Indies, contrary to the essential interests of this country.

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CAPTAIN NELSON TO PHILIP STEPHENS

27 August 1786[1]

[H.M.S.] *Boreas*
English Harbour, Antigua.

SIR,

The Board of Treasury having issued an order in the year 1763, and signed by Mr. Grenville for the admission of Spaniards bringing bullion to our colonies, which order was sent to the different Custom Houses in our colonies, the money brought out of the Spanish territories, not being allowed to be carried off by the Spanish Government, was of course clandestinely taken out of that country, to the detriment of Spain and the advantage of Great Britain. In return the Spaniards received British manufactured checks and linens, which were carried into their own country in the same clandestine manner.

In a few years our Custom Houses admitted cattle, mules and stock, to be brought by the Spaniards to our Islands, and they say it has the sanction of the Board of Customs, as an encouragement for the Spaniards to visit our Islands, and to take off our dry goods. At Jamaica from my own knowledge, having been upon that station, the reasoning will hold good; to that Island very large quantities of dry goods used to be sent for the purpose of the Spanish trade, but the contrary is the fact in these Islands. No dry goods calculated to suit the Spaniards are sent here, nor is there a merchant which I have heard of, who deals in anything but American produce, rum, beef,

[1] Admiralty, 1/2223.

pork, butter etc. for the use of the small community living about them. . . .

I must say a few words relative to the Island of Grenada. I understand it is asserted that the Spaniards take from that Island every year large quantities of British manufactured dry goods; I think I may venture to say that a great part of the dry goods given to the Spanish vessels who visit Grenada are of French manufacture.

Since the peace, the Island of Trinidada has been declared a free port, all imports are duty free, but on exports a duty of 15½ per cent. is paid to the [Spanish] King.

As the American vessels are now pretty tired of venturing too much amongst our Islands, their vessels, after delivering their cargoes in the French Islands, or at the Dutch settlements of Surinam, Demerara etc. upon the Main, repair to the Island of Trinidada, where they obtain from the Governor a qualification to make their vessels Spanish for a given time; they in general take a Spanish Creole, or two, to give a colour to the fraud, and thus prepared, they under Spanish colours visit our Islands, and the Custom Houses, under the cloak of the Order of Treasury in 1763, and the sanction which they pretend to have from the Board of Customs, admit these Americans, and I have but little doubt, although their decks are loaded with cattle, that in their holds they bring American produce; thus after all the trouble which some of the men of war upon this station have had to hinder American vessels from trading to our Islands, unless vigorous measures are made use of, they will again fill our ports, as much as heretofore.

I have seized one of these American Spaniards; but I might have had some difficulty in condemning her, had I not found the American papers and orders of the owners for this transmogrification.

Their Lordships know my opinion of the Custom House Officers in these Islands. They will allow all these kind of vessels to be admitted, under the cloak of their being Spaniards who may bring bullion and are to be encouraged. I shall seize, and order Capt. Collingwood to do so likewise, all these Trinidada vessels who are American built, and navigated by Americans, and shall allow none to come to these Islands, but the small Spanish open boats, which have hitherto been allowed, although I think without any advantage to these Islands; if money is ever brought, those are the kind of vessels which bring it; none other ever came to Jamaica.

I know the difficulties we shall meet with in having these vessels prosecuted to condemnation; the merchants and landed people will be against us for interest sake, the Custom House Officers must be, as they admit them, and if they are condemned, it will show their bad conduct in too glaring colours.

I should not have sent home this account but have waited the arrival of the officer who is to succeed Sir Richd. Hughes in this command, had I not thought it of such material consequence that an

account could not too soon be transmitted for their Lordships' consideration, and I beg leave to observe that already very numerous are the Americans, who are covered by the Spanish qualifications, although the first of them which I have met with is only dated the 21 May 1786. When I say one hundred, I am certain I am far within compass; every American vessel who trades to the West Indies will call at Trinidada to receive Spanish qualifications.

This traffic, I must take the liberty of observing, brings to the King of Spain a considerable revenue. It will increase the ship building of America, and raise the numbers of her seamen, while on the contrary it will decrease the British shipping and seamen in these Islands, these Americans will take off our rum, and carry it to America, so that our vessels will shortly have no trade to those states, they will be again the carriers between these Islands and America. For such is either the want of knowledge, or something worse in most of our officers here, that, if a vessel comes under Spanish colours, and produces anything Spanish, she must be a Spaniard and as such is granted certain privileges, or if under an English ensign, must be a true Englishman.

Their Lordships will I am sure see the necessity of something being immediately done in this Spanish American business, and I hope they will approve of what I intend doing.

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THOMAS IRVING TO THE COMMITTEE FOR TRADE

28 November 1786[1]

In obedience to your Lordships' commands, I have the honour of submitting to your Lordships the following plan for opening two Free Ports, one in the Bahamas and the other in Bermudas, with some previous remarks on the effects of the Free Ports established by the 6th of His present Majesty in the West Indies.

At a period almost coeval with the establishment of Colonies from Europe in America, a traffic or commercial intercourse began to take place between the subjects of the respective European Powers for the mutual convenience of supplying each other's wants. After the reduction of Jamaica by Oliver Cromwell, the Spanish inhabitants chiefly removed themselves, and their families, to the Plantations of St. Domingo in Hispaniola, and to Settlements on the mainland,

[1] B.M. Add. MSS. 38,345, ff. 208–11; and in B.T. 6/75, pp. 743–50. *Thomas Irving* was a merchant with experience of trade in America and the West Indies. He had been a member of the Council of South Carolina in 1772. He gave evidence before the Committee for Trade in March 1784 on the possibility of obtaining the supplies recently secured from the American colonies from Canada and the Maritimes. He was now Inspector-General of Imports and Exports and Registrar of Shipping. 'There are abundant signs', says Dr. G. N. Clark, 'that Irving began a new era in the Inspector-General's Office' (*Guide to English Commercial Statistics, 1696–1782*, Lond. 1938, p. 32).

towards the bottom of the Gulf of Mexico. The connections they had formed before their departure with the British settlers (sent over by Cromwell), and the advantageous supply of British manufactures, which they received from our merchants, or adventurers, who accompanied that Expedition, or settled soon after the reduction of the Island, laid the foundation of that extensive traffic which has ever since been carried on between Jamaica and the Spanish Main.

Goods to a very considerable amount suited to the Spanish market, were annually exported from this country to Jamaica, where they were generally shipped on board of small armed vessels, and conveyed to different parts of the Spanish Main, and there sold or exchanged in a clandestine manner for dollars, cochineal, Guatemala indigo, and other dye stuffs, and dye woods, mahogany, hides etc. As the British and Spanish colonists grew more opulent, their intercourse became more extensive. A trade which afforded so considerable a market for our merchandize and furnished us in return with silver and many valuable articles essential to our manufactures, was necessarily courted on our part. Advantageous however as this trade was, it does not appear to have been considered of such consequence as to induce us to adopt an open deviation from that system of policy which had regulated our trade and navigation ever since the 12th of Charles the 2nd, and therefore it was carried on, through a kind of connivance, in consequence (as is generally supposed) of private instructions from home to the Governors and Custom House Officers of Jamaica. It is extremely difficult to obtain such information of any clandestine trade, as may warrant our forming an estimate as to its extent, but from the best information I have been able to obtain of our trade with the Spanish Colonies (and I have been at much pains at various times both in America and England to investigate the subject), I am inclined to think that in the exchange we received not less than a million of dollars annually which furnished not only all our Islands in the West Indies and our Colonies on the Continent with a medium of circulation, but also afforded a considerable object of remittance in specie to England besides a quantity of cocoa, cotton, cochineal, indigo and other dye stuffs, raw and Indian dressed hides etc.

Upon the breaking out of the Spanish War in the year 1761, a circumstance took place on our part which gave the Spaniards just cause of disgust, as being a breach of that confidence and faith under which the trade had long been conducted. However, soon after the Peace [of] 1763 it was revived and carried on to a very considerable extent, until it received a severe check by certain regulations adopted in the year following in consequence of some gross misrepresentations to the then Administration respecting the nature of the trade, by certain interested persons. The impolicy of those regulations [was] early discovered, and in order to re-establish the trade and restore it

to its former footing by placing it under the protection of the Laws, four Free Ports were, in the year 1766, opened in the Island of Jamaica, and two in Dominica, the latter chiefly with a view of supplying the French Islands with slaves and British manufactures in return for sugar, coffee, cotton, wool and other West Indian productions.[1]

Such parts of this Act as relate to the Island of Dominica seem to have been formed upon a wise and liberal system. It permitted on the one hand the importation of every article, the growth of the foreign West Indies (tobacco excepted) and on the other the exportation of British merchandize of all kinds and of every article, the produce of America except certain enumerated commodities, such as pot- and pearl-ashes, whalefins, tobacco, cotton wool, indigo, naval stores, etc. the importation whereof has all along been restrained to Great Britain or her Dependencies, upon the principle of such articles being necessary either for carrying on our manufactures or extending our European commerce. But that part of the Act which respects Jamaica, I am sorry to add, is founded upon a very opposite policy. It excepts the importation of foreign sugars, coffee, pimento, ginger etc., articles which might have afforded very considerable freights to our shipping, and been the means (as the Act itself very properly recites) of improving our revenue and of increasing and extending our trade and navigation. It is probable that those exceptions were made in consequence of interested representations from the Jamaica merchants and planters who, conscious of their inability to command the British market for the sale of their sugars, but by means of the monopoly thereof which they possess, might be apprehensive of their meeting with a competition. But my Lords, I humbly apprehend that any deviation from the great navigation system (the wisdom of which the experience of many ages has confirmed) can only be admitted upon the principle of such deviation being the means of securing certain advantages to the Empire at large. The intention of opening Free Ports, in the British West India Islands, was doubtless entered into with a view of extending the market for the sale of British manufactures, and receiving in return the raw materials of the foreign Islands, whereby we might enjoy to the extent of the trade, all the advantages of the foreign Colonies, without being exposed to the expense of establishing or protecting them.

Your Lordships will doubtless expect to receive good information as to the effects of the Free Port Act, 1766, from the accounts of the imports and exports of these Ports, which I understand have lately been transmitted to you from the Custom House; but there are reasons that may not have fallen within your Lordships' recollection, which render the accounts fallacious. In order to defray the expenses of carrying into execution the Free Port Act, a duty of £1. 10. was imposed upon all negroes exported from Jamaica in foreign bottoms,

[1] 6 Geo. III, cap. 49.

and a like duty upon all negroes imported into the island of Dominica, also certain duties upon foreign sugar, coffee and cocoa, and upon the importation of any of these articles into this country, if for home consumption, they were further chargeable with duties as foreign plantation produce. In order to evade the payment of the import duty at Dominica, the negroes were seldom landed, being generally removed immediately from the British into the foreign vessels, and consequently did not appear upon the books of the Customs, and for a similar reason the negroes exported in foreign bottoms from Jamaica were in many instances clandestinely carried off. The foreign sugars, coffee, etc. imported into the Free Ports under this Act, being subject to the foreign duties on importation into Great Britain were also clandestinely landed and re-exported under the colouring of British produce. If a neglect of the Officers in carrying the laws of trade and revenue into execution could ever be justified in any case it would be in the present. I know not a single reason, nor have I ever heard any argument from the West India merchants, or planters, which was not founded upon partial and interested grounds, why foreign plantation sugar, coffee, cocoa, cotton wool, dye stuffs, and in general every other article, the growth of the foreign West Indies (rum and molasses excepted) exchanged for British manufactures etc. should not be imported through the medium of our Islands, on the same terms as the like goods of British plantation produce.

By 13th of His Majesty[1] the duties upon negroes was reduced to 2/6 and immediately thereafter the legal importation from Jamaica increased, from 235 to upwards of 2,000, and in the year 1784, the latest period to which the accounts are made up, the number exported amounted to 3,964. Dominica being captured in the year 1778, the Free Port Act was suffered to expire, and has not since been renewed. . . .[2]

45

BAHAMAS: EVIDENCE OF JOHN MILLER (AND OTHERS) BEFORE THE COMMITTEE FOR TRADE

1 May 1787[3]

Mr. John Miller, Merchant, trading to the Bahama Islands, Mr. William Bryan and Mr. Tiddiman Kerr, Captains of vessels employed

[1] 13 Geo. III, cap. 73.

[2] On 19 June 1784 (B.T. 5/2), with Dominica restored to Britain, the Committee for Trade had considered a memorial from the planters, merchants, and settlers there for the reopening of their two free ports.

[3] B.T. 5/4, pp. 267–70. A Bill had been prepared for four free ports in Jamaica and one each in Dominica and New Providence in the Bahamas, and the West India Committee was asked to send witnesses to comment on the proposals. As a result of their representations, Grenada too was given a free port in the new Statute (27 Geo. III, cap. 27) which was made permanent in 1792 (32 Geo. III, cap. 37), when free ports in Bermuda and Exuma in the Bahamas were added.

in the trade to the said Islands, attending were called in and examined as follows:

Q. Has any trade been hitherto carried on between the Bahama Islands and the French and Spanish colonies?

A. Between the Bahama Islands and the Island of Cuba and some part of the Spanish Main some trade has been carried on.

Q. To what part of the Spanish Main?

A. To the Floridas, and all the country that surrounds the Gulf of Mexico to Cape Catoche.

Q. What are the commodities the Spaniards come to fetch?

A. British manufactures, principally linens, printed linens, striped linens, checked linens, and osnaburghs, also hardware. They are beginning to take cottons. They take chiefly coarse goods and a great many fine ones. I have known them return with their money from not having been able to find the goods they wanted to purchase; in such cases they commonly go from our Islands to Cape François and other French Ports. The Havannah is principally supplied from the Danish Free Ports and the French Ports in Hispaniola, but it would be more convenient to the Spaniards to come to the Bahamas. The before-mentioned Free Ports are much further to windward. The difference of the voyage is from ten days to six weeks and their vessels are bad sailors.

Q. Do you apprehend they would come to fetch negroes from the Bahamas if they could get them there?

A. Most assuredly. The principal reason is, they could carry them from thence to their own ports much more safely for their health, and at a smaller expense.

Q. Has not there been a great quantity of goods sent from the Bahamas to the Floridas since these Provinces have belonged to Spain?

A. There has been some quantity sent to Pensacola, New Orleans and the Apalaches.

Q. Of what nature were these goods?

A. Mostly coarse woollen goods, all kinds of hardware, fire arms and ammunition for the Indian markets.

Q. Do the Spanish vessels ever bring, in return for the goods they take from the Bahamas, anything besides gold and silver?

A. Yes, hides, mahogany, some dyeing woods and logwood. They bring sometimes tortoiseshell and some livestock, cattle and poultry. They would bring indigo and many other commodities, the produce of those countries, if they understood their vessels could be legally admitted; they are now under some apprehensions of being seized.

Q. Of what size are the vessels in which the Spaniards carry on this trade?

A. Mostly small vessels from 15 to 25 tons. Vessels of 70 or 80 tons are the largest ever employed.

Q. Is this a trade likely to increase?

A. As matters now stand it will not increase, but we are clearly of opinion that if a Free Port in the Island of Providence was opened, it would increase in an astonishing degree. The increase would be very perceptible at the end of the first year.

Q. Do you apprehend that the French would come, in such case, to purchase our manufactures?

A. I think they would come from Hispaniola. They would come there as a place of meeting with other traders, but would likewise take off great quantities of our manufactures, and bring indigo, cotton and other articles.

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MINUTE OF THE COMMITTEE FOR TRADE

15 May 1790[1]

Present: Lord Hawkesbury, Marquis of Graham, Mr. Ryder, Mr. Orde.

Read—Letter from Mr. Steele, Secretary of the Treasury, transmitting two memorials, the one of Peter Franklyn Esquire, Collector, and John Dawson Esquire, Comptroller of the port of Kingston in the Island of Jamaica, on behalf of themselves and of the rest of the officers of the customs at that port; and the other of George Ferguson Esquire, Collector of the customs at Grenada on behalf of himself and of the rest of the officers of the customs in the ports of that Island, praying relief with respect to the 8th section of the Act establishing certain free ports in the West India Islands, which section exempts foreign vessels entering in or clearing out from the free ports in those Islands from the payment of all fees, and submitting the prayer of the said memorials to the consideration of the Committee.

Ordered, That a letter be written to Mr. Steele in answer thereto, acquainting him for the information of the Lords Commissioners of His Majesty's Treasury, that foreign vessels trading to the British free ports in the West Indies were exempted from the payment of all fees by a clause in an Act passed in 1766, by which Act these free ports were first established, and this clause was repeated in Act passed for the increasing of these free ports and the improvement of them in 1787. Their Lordships see with satisfaction that the trade for which these free ports were specially opened has progressively increased and is become an object of great national importance. But they observe as well by what is stated in the said memorials, as by an account herewith transmitted, that the before-mentioned exemption has had the bad consequence of giving a preference in carrying on the trade

[1] B.T. 5/6, pp. 221–4.

intended by these Acts to be encouraged to foreign vessels to the detriment of the navigation of this country, though it is certain that a considerable part of this trade may be carried on by British vessels with equal facility and advantage as by foreign vessels. And there is reason also to believe, that the naval and custom house officers at these free ports, in consequence of their not receiving fees from foreign vessels, may have been less attentive to their duty in examining the cargoes of these vessels and in taking an account of them, than they ought to be, and that the exemption so given to foreign vessels has induced British merchants to commit frauds in this respect by purchasing foreign vessels, by procuring foreign papers, and by employing foreign mariners in carrying on this trade, merely for the purpose of being exempted from fees.

From all these considerations their Lordships are of opinion that British vessels and foreign vessels concerned in this trade should be put upon the same footing with respect to the payment of fees. They think however that the prayer of the memorialists should not be complied with by subjecting foreign vessels to the payment of the same fees as are now paid by British vessels. It is clear that these fees must be very high from the effect it is confessed they have produced. But their Lordships are of opinion that both British and foreign vessels, trading between the said free ports in the British Islands and the colonies belonging to foreign European nations in the West Indies should be obliged equally to pay very moderate fees and that these fees should be paid only to the custom house officers and to the naval officer, whose duty it is to enter in and clear out these vessels, and to take and transmit an account of them and their cargoes to Government. It may also be proper to subject both British and foreign vessels, concerned in this trade, to moderate and equal port charges, to be received by the harbour master and such others only, as have duties to discharge and are subject to trouble on that account.

Their Lordships are of opinion that these fees being made equal may be the means of restoring to British vessels the share they ought to have in this trade, and if the fees are very moderate it is not likely they will obstruct or diminish the trade, but have the effect of removing many frauds that are now committed, in carrying it on and of inducing the officers to obtain more accurate accounts of the nature and extent of this trade than they have hitherto done, the knowledge of which will be of great use in forming any future regulations for the extension and improvement of this branch of commerce. The naval and custom house officers can have no reason to complain that the fees taken on British vessels concerned in this trade are reduced, as they acknowledge that very few are now employed in it, and the moderate fees they will by this proposal be allowed to receive from all the vessels hereafter to be employed in this trade, will in all probability add very considerably to their present emoluments.

The Lords of the Committee do not think it belongs to them to settle and determine what the amount of these fees should be. They are of opinion that such an arrangement may be made with more propriety by the Lords of the Treasury after consulting the Commissioners of the customs on this subject, and if they think proper, the Governors of the respective Islands where these free ports are established, and when the system is formed and approved of, it may then be proper to repeal the 8th section of the free port Act exempting foreign vessels from the payment of fees, and to enact by the authority of Parliament what the amount of such fees should in future be, with a penalty on any officer who shall presume to take any fee to which he shall not be legally entitled.

47

ANTIGUA: PETITION OF THE COUNCIL AND ASSEMBLY TO GEORGE III, June 1792[1]

To the King's most Excellent Majesty.

The humble Petition of the Council and Assembly of the Island of Antigua. Sheweth

That your Majesty's Island of Antigua is reduced to the utmost distress by several successive years of dry weather, and the devastations of insects formerly unknown in the Colony; whereby the labour of the planter has been rendered unprofitable and many families reduced from affluence to want.

That from the rapid decline of our commerce the towns of this Island exhibit a melancholy picture of poverty and decay—streets, once crowded with industrious inhabitants now untrodden and solitary; shops and warehouses formerly filled with the manufactures of Great Britain and Ireland, now empty and shut up; dwelling houses untenanted; harbours without shipping, mechanics without work, and men of every profession in want of employment. . . .

To relieve our present distresses and to prevent similar sufferings in future, we your Majesty's most dutiful and loyal subjects humbly implore your Majesty and the Lords and Commons of Great Britain graciously to extend the freedom of trade to one, or more, of the ports of this Island, as the only means of restoring our expiring commerce, of preventing our remaining inhabitants from quitting the Island, of inducing those who have left it to return, of encouraging new settlers among us, and of saving the Colony from ruin.

We therefore your Majesty's most dutiful and loyal subjects, the Council and Assembly of your Majesty's Island of Antigua do most humbly pray your most Excellent Majesty to grant your Majesty's

[1] C.O. 152/72. Enclosure in Governor Woodley's dispatch, 28 June 1792.

royal assent to such Bill as may be passed in the Parliament of your Majesty's Kingdom of Great Britain whereby one or more of its ports may be made Free Ports under such restrictions, and for such space of time as in the wisdom of your Majesty and the Parliament may seem meet. And your Majesty's Petitioners will ever pray.

EDWARD BYAM, President. THO: FREEMAN, Speaker.

48

GRENADA: LIEUT.-GENERAL EDWARD MATHEW TO LORD HAWKESBURY, February 1793[1]

MY LORD,

It has been a great object with me for a length of time to obtain, for your Lordship's information, as full a statement as possible of the present situation of the trade carried on from the free port of St. George, in the Island of Grenada, to the foreign colonies.

I have frequently conversed on this subject with the principal merchants, who have agreed that the most effective plan would be to ascertain the value of the annual importations from Europe, and deduct from the gross amount a reasonable sum for the consumption of the Island. The remainder, of course, would be the importation for the supply of foreign markets. The amount of the European goods imported by the merchants of St. Georges for the consumption of the Island, cannot be great, for a militia of not quite a thousand men gives but a small number to be supplied.

Almost every plantation imports for itself the stores it has occasion for. The inhabitants of Grenville are supplied in great measure by ships which trade thither, and some importations are also made into Gouyave and Sauteur, for those neighbourhoods.

The great quantity of European goods imported into St. Georges must therefore be principally for the supply of the foreign settlements. I enclose an abstract (No. 1)[2] of the sterling value of the merchandise imported from Europe by sixteen houses for the last year, amounting to £328,246. These houses are selected, as they devote themselves particularly to the foreign trade. . . .

But this is not the only benefit resulting from the Free Port Act. A quantity of the flour, bread, rice, fish, etc., imported on any British bottoms from America, and of the wine imported in like manner from Madeira and Teneriffe, is reshipped here for foreign settlements. The export of rum is also considerable. The enclosed abstract (No. 2) of

[1] *Liverpool Papers*, Add. MSS. 38,228, ff. 325–8. An undated letter. *Lieut.-General Edward Mathew* was Governor of Grenada between 1784 and 1789. In May 1791 his plea for a new free port had been favourably considered by the Committee for Trade, but the Commissioners for Customs had scotched the idea.

[2] The four abstracts referred to (ff. 329–33) in the dispatch are here omitted.

the exports for three months collected from the Custom House papers, will show that these branches are of no small annual value. It will also show the general nature of the merchandize exported. But the dry goods are only cleared as so many trunks, bales, or boxes, without any regard to their species or value; and it was this impossibility of ascertaining, through the medium of the Custom House, the value of the export trade, that led to the method which has been adopted, of obtaining from the merchants the amount of their imports. The value of the dry goods sold during these three months to the Spaniards by James Smith and Company was £7,743 sterling.

The supplying the foreign colonies with slaves is another branch of this commerce, nearly equal in value to all the rest. I enclose an abstract (No. 3) of the slaves imported and exported from April 1784 to November 1792. The value of the exports in that period is £1,174,883 sterling, and this commerce is increasing.

Such, my Lord, is the best general view I have been able to obtain of the commerce under the Free Port Act, to which Grenada is so largely indebted for its prosperity. But at present this commerce labours under one essential disadvantage, which is the prohibition against importing certain articles of foreign produce to repay these exports. I enclose an abstract (No. 4) of the importations from the foreign colonies for the last quarter. The amount though large, is by no means equivalent to the export, because the revenue laws forbid the importation of foreign sugar and coffee, and therefore the import must be chiefly confined to cotton. Yet in the French Islands there is little cash; sugar and cash are the only articles which much the greater part of the planters have to offer in payment. The merchants are in a manner necessitated to take them, and necessitated, by these laws to sell them on the spot, or at St. Eustatius, at a certain loss, though they receive them at a price which would be very advantageous, could they be brought here and reshipped for Great Britain as foreign.

It has been said in answer to this, that by the late Act, known by the name of the Sugar Bill, British vessels may go to the foreign ports, and load sugar and cash there. It is true the Act permits this—it is equally true that the foreign Governments do not allow British ships to load at their ports; and of course this permission might as well be abolished.

Were this restriction taken off, and foreign sugar and cash allowed to be imported in one decked foreign bottoms into the free ports, in the same manner as the cotton, to be reshipped to Great Britain as foreign, and to be subject to all the restrictions of the Sugar Bill, this trade would in all probability be soon nearly doubled. The merchants would be prevented the invidious necessity of obtaining these articles at every risk: a principal cause of the disagreement between them and the officers of the revenue would be wholly removed; and in the

present confusion of French affairs, much the larger part of the produce of their colonies would be exported to the continent of Europe through Great Britain. . . .

February 1793[1]

Lord Hawkesbury sends the enclosed papers to Mr. Ryder. He received them from General Mathew, late Governor of Grenada. They contain a very curious account of the profits derived from the free port of S. George in the Island of Grenada. The exports amount annually to about £330,000 in British manufactures, and as much in slaves. Total £660,000 per annum.

The imports are deficient, but from the Spanish settlements the balance is paid in dollars. From the French colonies the trade is checked for want of a return. Lord H. is disposed to encourage the import in other articles, if proper ones may be found, and he has desired General Mathew to suggest any that occur to him. Lord H. thinks that tobacco may very well be admitted,[2] as it is produced in large quantities, at least in the Spanish colonies, and it is probable the French may be tempted to introduce the cultivation of it. It will bring to the British market a new species of tobacco. It will not interfere with any article of produce in our Islands. If it diminishes the import from any country, it will be from the United States, which is a consideration not worth regarding, and the whole will be brought home in British shipping.

Lord H. is induced, from the perusal of these papers, as well as from those respecting the free port in the Island of Antigua (which he recommends to Mr. Ryder's perusal) to open the port of Antonio in the Island of Jamaica, as a free port, as well as the free port applied for in the Island of Antigua, if the Lords of the Admiralty shall have no objection. He feels himself on this subject no other objection, except that he is apprehensive that every port in our West India Islands will apply to be made a free port, from a sense of the great advantages to be derived therefrom.

19 February 1793.[3]

[Mr. Ryder comments]: . . . The value of the slaves re-exported from Port St. George seems to be overstated. The average does not appear to be above £130,000 per annum. The trade however is, in other branches, very considerable, and clearly of a nature to deserve encouragement. Mr. R. sees no objection to the proposal of adding Port Antonio in Jamaica, a port in Antigua, or indeed any port which

[1] Add. MSS. 38,228, f. 324.

[2] This is a good example of Hawkesbury's method of dealing with applications for free ports. He was prepared to admit trade in such articles as would not materially compete with British West India products. Tobacco was a bulky article and it could be blended for re-export to the Continent.

[3] Add. MSS. 38,228, ff. 337–8.

wishes it, and where there is a proper Custom House establishment, to the list of free ports, under the present importations. The extension of the allowed articles of import, so as to include sugar and coffee (particularly the former) would, he imagines, be open to so much fraud, as to appear highly objectionable to the West India planters. Spanish tobacco seems open to no such objection,—but, if admitted into those ports, the duty which is now 3/6 per pound—2/6 higher than is imposed on British or American—must also be lowered, in order to make it in fact importable here; and before any new species of tobacco is introduced into this market, it would be necessary to examine the complicated regulations of the excise in order to be certain whether, having been calculated for tobacco of a very different nature, they would be applicable to this. Mr. R. cannot avoid suggesting a doubt whether under the present and probable situation of affairs in the West Indies, this is the moment for making any considerable alteration, except such as may become expedient to improve the advantages of our situation.

Governor Mathew's objection, that British vessels are not allowed to load sugar and coffee in foreign West India ports, and therefore cannot bring them to the sugar free ports does not prove that that Act does not furnish the French (for instance) with the means of making returns, because it gives them the power of lodging those commodities in those free ports on the account of the merchant in the British West Indies who has supplied him with European manufactures; and that merchant may either sell them there, or export them from thence to Europe.

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EXTRACTS FROM MINUTES OF THE COMMITTEE FOR TRADE, 1793 to 1808

22 February 1793

In consequence of information received respecting the trade carried on in the Free Ports established in His Majesty's West India Islands their Lordships were pleased to order that a letter be written to the Secretary of the Treasury, stating that upon enquiry into the state of the present Free Ports in those Islands, they find that the trade of them has gradually increased to a great amount, and is likely to increase still further, and that on this account these Free Ports are not only highly beneficial to the commerce of Great Britain, but that under the regulations to which they are made subject, they contribute greatly to the prosperity of the Islands in which they are established, and are in no respect detrimental to the interests of the British planters; and

[1] B.T. 5/8, pp. 380–2. War had been declared by France on 1 February.

signifying that, with a view to the further extension of this branch of commerce, it is their Lordships' wish to permit the importation, into these Ports, of any additional articles the produce of the Spanish, Portuguese, or French colonies which will not materially interfere with the present produce of the British Islands, for in return for these additional articles a greater quantity of British manufactures will necessarily be sold and signifying also that it has occurred to their Lordships that tobacco which is produced in great quantities in the Spanish and Portuguese colonies, and in some degree in the French, might with advantage be permitted to be brought into these Free Ports under the subsisting Regulations of the Free Port Acts, and that this article would be brought from these Free Ports to Great Britain, in British ships and being a bulky article, it would contribute to increase the navigation of Great Britain, that when this tobacco arrives here being different in its quality from tobacco imported from the United States of America, it would add to the different sorts of tobacco which are necessary for the supply of the foreign markets, and in that respect increase our trade to them. But that in this case it will be necessary that tobacco the produce of the Spanish, Portuguese and French colonies when it is imported from our Islands in British shipping, should be placed on the same footing, with respect to duty, as tobacco the produce of our West India Islands, or brought from the United States of America. And therefore desiring the opinion of the Lords Commissioners of His Majesty's Treasury, whether, as far as relates to the revenue, their Lordships see any objection to reducing the duty on tobacco the produce of any foreign colony or plantation, when it is brought in British ships from any of His Majesty's Islands in the West Indies, to the same duty as is now payable on tobacco the produce of the said Islands or imported from the United States of America.

7 August 1799[1]

Read, Letter from John King Esquire, dated 30th ult. transmitting, by direction of His Grace the Duke of Portland, copy of a letter from Governor Dowdeswell,[2] with a Petition from the merchants of Nassau carrying on the trade with the Spanish Colonies in consequence of His Majesty's Instructions admitting an intercourse between the British Colonies in the West Indies and the Spanish Settlements; which Petition complains of frequent interruptions the merchants have experienced in the said trade by some of His Majesty's Ships of War, as well as British private Ships of War; and the great losses they have sustained thereby.

Read, Letter from Mr. Chalmers, Colony [*sic*] Agent for the Bahamas, enclosing a copy of the Petition above mentioned.

Transmit copies of the papers received from Mr. King, to the

[1] B.T. 5/11, pp. 355–7.

[2] Governor of the Bahamas.

Secretary of the Admiralty, with a letter recommending to the Lords Commissioners to take the same into their immediate consideration, and to give such orders for preventing the embarrassments occasioned in the said trade as shall appear to their Lordships to be necessary and proper. At the same time stating that the Lords of this Committee have certain knowledge, from accounts transmitted, that in a commercial view the intercourse between the British Free Ports in the West India Islands and the Spanish ports in the West Indies and in South America, which His Majesty has expressly authorized by the Instructions and licences alluded to, is of the greatest advantage to this country; stating also, that as far as this Committee can judge from the papers which have been transmitted to them, it appears that the British cruisers in those seas have, by their conduct, thrown obstructions in the way of such intercourse, which may, in their consequences, put a total end to the said trade.

Acquaint Mr. King therewith, for the information of His Grace the Duke of Portland.

15 March 1805[1]

[On receiving applications for further extension of the free port system, the Committee reviews its history up to date.]

. . . Events . . . took place on the breaking out of the Spanish War in 1761 which interrupted the trade seriously, but soon after the Peace of 1763, it was revived and carried on with considerable spirit, till checked by certain regulations adopted here in the year following. The impolicy of those however was soon discovered and in order to re-establish and encourage the trade by placing it under the protection of the Law, four Free Ports were established by an Act in the year 1766. That Act, however, with one or two intervening ones, were repealed by 27 Geo. 3 c. 27, which last, with the others enumerated in the following list, are all now in force; some of them temporary, and others perpetual; one of them indeed, containing most important Regulations, is in part perpetual and in part temporary, as stated opposite to each.

[The Minute proceeds to survey 27 Geo. III, cap. 27 and subsequent free port legislation to 1802.]

The attention of the Committee having been thus called to the subject, they are induced to recommend that all the Acts should be consolidated into one, and that the ports of St. Ann in Jamaica, and Scarborough in the Island of Tobago, and the port of Pitt's Town in Portland Harbour in Crooked Island, one of the Bahamas, shall be included in the new Act, and that it should be made perpetual; with separate provisions for New Providence, Crooked Island, and Bermuda. The Committee being persuaded that if the Regulations established in each, are attended to by the Revenue Officers, much

[1] B.T. 5/15, pp. 79–85.

benefit will be derived to this country from the intercourse, with very little risk of serious inconvenience; for which purpose my Lords will direct a Bill[1] to be framed if the suggestions shall be approved of.

Transmit copy of this Minute to Mr. Huskisson, for the information of the Lords Commissioners of His Majesty's Treasury.

11 July 1808[2]

Their Lordships having attentively considered the great importance of the trade carried on between the British Free Ports in the West Indies and the Spanish Colonies in that part of the world, which has lately increased very much, and may probably, under existing circumstances, be considerably extended, were pleased to order that a letter be written to the Hon'ble W. W. Pole, desiring he will communicate to the Lords Commissioners of the Admiralty the opinion of the Lords of this Committee that it is extremely desirable that instructions should be given to the Admirals commanding on the Leeward Islands and Jamaica Stations, to use every means in their power, as well by stationing cruisers, as by the appointment of convoys for the protection of British and Spanish vessels employed in that commerce against French privateers, as the exertions of the latter will naturally be incited by the extent and increase of this trade.

50

LORD LIVERPOOL TO LORD HOBART

15 May 1802[3]

Hertford Street.

. . . It should be the policy of this country to connect ourselves with the subject of Spain on the Spanish Main in every way and to as great a degree as we can; and to increase our own navigation in the American seas, so as to obtain a decided superiority over that of other nations. By the intercourse which our Free Ports on the present system have established between us and the Spaniards we carry on a vast trade with them and have formed a very strong connection with them. But the measure proposed by Mr. Colquhoun[4] [for a free port in Tortola on Danish-Dutch principles which conflicted with the British Laws of Trade][5] will tend to discourage and diminish our intercourse with the

[1] The Consolidated Free Ports Act (45 Geo. III, cap. 57) was passed the same year.

[2] B.T. 5/18, pp. 167–8.

[3] *Liverpool Papers*, Add. MSS. 38,311, ff. 264–5. Charles Jenkinson, Baron Hawkesbury, became the first *Lord Liverpool* in May 1796. He died in 1808.

[4] *Patrick Colquhoun* was agent for St. Vincent, Nevis, Dominica, and the Virgin Islands.

[5] Liverpool had analysed the differences between Colquhoun's proposed port and the orthodox free port system in ibid., ff. 242–3. The only foreign ships permitted to participate in the free port trade were ships of not more than one deck,

Spaniards and it will at the same time increase the navigation of the Dutch, Danes and Americans who are our only rivals in the inferior sort of carrying trade of those seas; for we have nothing in this respect to fear either from the French or the Spaniards; and would not even suffer during the time that the island of Martinique was in our possession that the French inhabitants should have by means of our shipping any intercourse with the Spanish possessions. Whatever we give in this respect to the Dutch, Danes and Americans we in reality take from ourselves; and if some small branches of our commerce should on this account be to a certain degree obstructed, remember that it has been the great policy of this country during the course of many centuries to prefer the interest of our navigation even at the expense of our commerce. . . .

D. THE PROBLEM OF SUGAR

51

JACKSON BARNES TO WILLIAM PITT

12 January 1792[1]

[New London Tavern, Cheapside.]

SIR,

This Committee was appointed at a numerous and respectable meeting of gentlemen called together by public advertisement for the purpose of endeavouring to discover the causes of the present extravagant and oppressively high price of sugar, and to consider of the means of equitably reducing it to a proper medium.

They feel themselves confident in their application to you sir, whose vigour and promptitude in the service of the public has been so often and so successively exerted.

We presume, therefore, to lay before you such information as we have received and such observations as we have made in order to discharge this our public undertaking with all due respect to your situation and superior means of intelligence.

1st. We cannot but consider sugar in polished nations as a necessary

owned and navigated by some European Power, thus excluding the U.S. ships from the free ports and reserving the transatlantic trade to British shipping. To allow foreign shipping indiscriminately to enter free ports with produce from the foreign islands in the West Indies or North America would violate the implied 'compact' between Great Britain and the West India planters, and upon which the planters had invested their capital. Provided these safeguards were effectively enforced and the number of free ports did not become excessive, Liverpool strongly supported the system.

[1] *Liverpool Papers*, Add. MSS. 38,227, ff. 219–24. This is a copy sent by Barnes to Hawkesbury, 23 January 1792. *Jackson Barnes* was the Chairman of this special Committee set up at a general public meeting to consider the high price of sugar. The case for the equalization of the duty on East India sugar was supported by the sugar refiners in Britain.

of life; and that its present exorbitant price is a very injurious and a very extensive public grievance, and peculiarly so upon the middle and lower ranks of people.

2d. We have indubitable authority for saying that the present high price of sugar has induced many thousands of respectable people in the middle rank of life to deny themselves the use of it in a very real degree, and that it is impossible for the lower order of people, that very numerous body, to afford to buy any sugar at all out of their scanty wages.

3d. The consumption therefore of sugar in Great Britain and Ireland is already very considerably diminished, and will still diminish rapidly, and perhaps lastingly if means be not immediately found for a considerable reduction of the price.

4th. A diminution of the consumption of tea is an inevitable consequence of the disuse of sugar.—It will be unnecessary for us to observe the injurious effects of both upon the public revenue.

5th. That the West India Islands and their mercantile connections having been gainers by the public to the amount of considerably more than £3,000,000 sterling within the last two years 1790 and 1791, above such medium profits as they would confess themselves to be satisfied with upon an average, shows how much the consumers of sugar have suffered by this extraordinary advance of its price. And, as in all articles of universal consumption, it must particularly have fallen on the middle and inferior orders of society, on those least able to bear it. Its pernicious tendency and effects, therefore, are clear and beyond all contradiction.

We do not mean by such observations to cast any disrespectful reflections on the West India interest, believing that all this has happened, partly in the ordinary course of things and without any preconcerted design of theirs, and from a concurrence of accidents and circumstances which probably could not be foreseen by any man, but of which in a fair and just way, they doubtless have a right to take advantage.

6th. All other men, however, have an equal right to resist so predominant an evil. And a universal public interest will always be superior to all other considerations.

7th. This Committee being informed, therefore, upon enquiry, that the East India Company had imported some small quantities of sugar,[1] and were capable of importing sugar from India to any amount, even to the supplying of the demands of all Europe, have applied to the Court of Directors for information, and have made use of every other means in their power of obtaining intelligence from gentle-

[1] In 1789 a Committee of the E.I. Company had recommended the introduction of sugar from the East, and in 1791 the first small shipment was unloaded in London. Pitt and Dundas favoured attempts to win European markets with East Indian sugar; but the West Indian interest was strong enough to prevent any reduction of the considerably higher duty charged on its importation into Britain.

men conversant in India commerce, recently returned from that country. . . .

8th. We are informed by gentlemen lately arrived from India, that some new and effectual regulations have taken place, very much in favour of the people of that country; and that in the course of three years, the cultivation of sugar has increased in Bengal, Bahar, and Benares in Begas to the amount of nearly one hundred thousand acres; which at one hogshead per acre (a moderate reckoning) would produce one hundred thousand hogsheads of sugar. Such a supply when means of importing it can be found would doubtless reduce the price of sugar to a just medium.

We doubt not that administration upon requisition may receive the fullest information from the said gentlemen.

9th. With submission the Committee are persuaded that if the trade to India were freely opened to all British subjects, under such regulations with regard to customs duties both in India and Great Britain as the wisdom of Government should find most for the mutual advantage of both countries, an energy and spirit would be infused into that trade, which would shortly and effectually supply us with sugar in very considerable quantities, and every other valuable commodity from that country. And a much greater demand would be created, we are well assured, for British manufactures than can possibly be within the circumscribed views of a monopoly. The arguments in favour of a monopoly fall to the ground, when the territory is become our own property. In India therefore monopoly should cease. In China it should continue because there we have no territory.

10thly. But as the earliest importations of sugar from the East Indies must be too distant in time and too small in quantity, according to the Company's present proceedings, to yield the nation any early or material relief, we have found it necessary to turn our thoughts to the present existing circumstances of the West India sugar trade in this country; and we hope by laying our observations before administration, to be in some degree instrumental in relieving the public from so injurious and extensive a grievance; though we are well aware of its being already in the contemplation of Government.

11th. We enquired into the nature and effects of the bounty upon refined sugars for exportation, and of the drawback upon our sugars exported, and we find that if the bounty upon refined goods were intended only to equal the drawback of 15/- on our sugar, that the bounty ought to be only 22/4 instead of 26/- per cwt. As long as our sugars are allowed to drawback the whole 15/- duty upon exportation, such a bounty appears to us no more than a matter of justice and good policy. But perhaps both bounty and drawback might be diminished, without any national injury with regard to our foreign commerce.

They were certainly at first only intended as an encouragement to our West India plantations, in case they produced more sugar than

the British consumer would take off; and that need of encouragement at this time assuredly does not exist.

12th. The Committee do not perceive how the present evil can be immediately removed, or alleviated materially, but by a temporary suspension of both drawback and bounty. Some have suggested a regulation of sugar, similar to that of the corn trade, i.e. that whenever the price rises above what the planter or merchant have acknowledged to be quite satisfactory to them, exportation should cease. This doubtless in the present case would yield us the most effectual and instantaneous relief. But the Committee nevertheless are perfectly convinced that a full market arising from a free trade is the only way to make all merchandize find its true medium. And under just and equitable regulations we cannot but think our East Indian dominions worthy of as much commercial attention as our West Indian colonies. We therefore think an equalization of duties on all sugars imported from British settlements is but an act of justice and entirely necessary in our present circumstances.

13th. It has been suggested to the Committee that the East Indian sugars ought to put a higher duty on importation than the West, because it comes over in a much purer state, and cleared of molasses or foot. But the contrary is rather true, because the expenses of refining it must have been paid for in India, and because the tonnage from India at 10£s per ton is 6£s per ton higher than the freight from the West Indies, which is only 4£s per ton to which must be added a higher insurance etc.

14th. In case of an equalization of duties, the custom house oath will require alteration, it being at present confined to sugars imported from the British plantations in America. It is requisite also to admit the mixture of the East and West Indian sugars in refining.

15th. Foreigners who buy sugar at our markets with the bounty of 26/- per cwt. on the refined and 15/- per cwt. on the raw, do certainly buy sugar cheaper than we do for home consumption, by all that difference, that is, refined $2\frac{3}{4}$ per pound, and raw upwards 172 per pound, deducting however their shipping charges.

16th. We do not perceive upon the whole why any more bounty or drawback should be given at any time than is sufficient to put the foreigner and the British on an equal footing. The smuggling of our own sugars back upon us is no doubt encouraged and practised by such high bounties and drawbacks. . . .

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JAMAICA: TWO REPORTS FROM COMMITTEES OF THE HOUSE OF ASSEMBLY, 23 November 1792 and 13 November 1807

23 November 1792[1]

Mr. Shirley, from the Committee appointed to inquire into and report to the House the state of the sugar trade, . . . reported,

That, in obedience to the order of the House, they proceeded to collect the best information that could be obtained, to enable them to judge of the effects that must necessarily arise from the operations of an Act evidently calculated to prevent the price of sugar exceeding a certain standard; for which purpose the Committee thought it proper to compare together two periods of time, in which the West India colonies enjoyed the blessings of peace, and in which the quantity of sugar imported into Great Britain from the West Indies was nearly the same, but its value very different. The *first* period comprehends the term of four years, viz. 1772, 1773, 1774, and 1775 (it was not till the beginning of 1776 that the American privateers began to seize West India ships); the *second* commences with 1778, and includes the three subsequent years. During both these periods none of the sugar colonies were afflicted with hurricanes; in the former, the importation of sugar into Great Britain amounted to 3,921,781 cwt. from Jamaica, and to 3,762,804 cwt. from the rest of the sugar colonies; and in the latter to 5,130,085 cwt. from this island, and to 2,563,228 cwt. from the rest of the islands. . . .

[These two periods are compared—in respect to tonnage, price of slaves, imports of food and fuel, revenue collected, sugar exported, &c.]

Here the Committee cannot but point out to the House the extraordinary advantages resulting to the parent state from the culture of canes in the West Indies; for the above calculations clearly shew, that when sugars were selling at 34*s.* 8*d.* [i.e. the first period] Great Britain received out of the sales, for duties, supplies, insurance, freight, and charges, 16*s.* 3½*d.* for each hundred weight so imported and sold; and when selling at 58*s.* 7*d.* [i.e. the second period] no less than 26*s.* 5*d.* per cwt., and as the imports of sugar into Great Britain from the British West India islands have amounted, on an average of the last four years, to 1,923,328 cwt. it must be evident (though at first sight it may appear hardly credible), that Great Britain has

[1] *Journals of the Assembly of Jamaica*, vol. ix, Jamaica 1815, pp. 144–6. Grocers and refiners in Britain had urged the lowering of the duty on foreign sugar and the restraint of excessive re-exportation when the average price was too high. In June 1792 an Act (32 Geo. III, cap. 43) prohibited reshipments when the price rose above 50 shillings a cwt. The West Indians complained that the price named was too low a maximum.

received annually, from the amount of the gross sales of sugars, and the purchase of supplies, 2,983,161*l.* 9*s.* 4*d.* sterling, besides the benefits that result to her monied men from an interest of 6 per cent. and to her farmers and manufacturers from the profits of the sugar planters, which ultimately centre in Great Britain, or are expended in improvements here.

The Committee have included in the above calculations the duties, amounting to 1,442,490*l.* sterling; for though it may be alleged that the revenue of Great Britain might derive the same advantages from an importation of sugars from any foreign colony, yet the accounts of sales of the factors in Great Britain prove that the duties are paid by the planters; that the factors not only deduct it out of the gross sales, but even charge an interest on it until the sugars are paid for by the purchasers; and that it depends on the price sugars sell at, whether the planter shall be reimbursed or not.

The Committee having been able to state to the House the price of sugars, and the balance at the disposal of the planters in the hands of their factors in Great Britain, during these two periods of time, it remains to shew the effects that these circumstances have had here.

The Committee find that, during the first period, there were 775 sugar estates in Jamaica, exporting to Great Britain annually 76,897 hogsheads,[1] which weighed at the home markets 980,436 cwt., and the balance at the disposal of the planters being 18*s.* 4½*d.* per cwt. these 76,897 hogsheads neated 900,775*l.* 11*s.* 6*d.* sterling.[2]

It is well known that the sugar exported from hence to America (amounting, during the first period, to 408 hogsheads each year), and what is sold here for the consumption of the island, together with the rum, does not defray all the expenses attending sugar estates, if the purchase of slaves and the payment of taxes for the support of Government are to be added to it. The sugar planter must draw for these two articles on account of the balance stated above to be at his disposal in Great Britain. . . .

[177 estates have been sold for debt within 20 years.]

The four last years afford better prospects; for though the price of slaves, of lumber, salted beef, pork, and herrings, is considerably increased, and the taxes are much higher, yet the neat price of sugars to the planter having risen from 18*s.* 4½d. to 32*s.* 2*d.* per cwt. they have begun to pay their debts, and, in consequence of such payments, have got into better credit. In the course of the last year, 2,181 executions only were lodged in the office of the provost-marshall, amounting to 569,724*l.* sterling, and the quantity of sugars imported into Great Britain has increased from 980,436 cwt. to 1,282,514 cwt. an

[1] A hogshead varied between 100 and 140 gallons.

[2] The figures quoted earlier claimed that 4,018 hogsheads were sold in the first period; 5,314 in the second. Profit per cwt. was 18*s.* 4½*d.* in the first period; 32*s.* 2*d.* in the second.

increase of 302,078 cwt. The Committee have further to observe that 47 sugar estates are settling in this island.

This increase in the value of sugars has been occasioned, not so much by an increase of consumption in Great Britain and Ireland, as by a greater demand for foreign markets. It appears that Great Britain, during the years 1790 and 1791, exported 277,656 cwt. raw, and 278,391 cwt. refined sugars; which, at the rate of 45*s*. per cwt. for the raw, and of 90*s*. per cwt. for the refined sugars, has added at least 1,600,000*l*. sterling to the balance of trade, in favour of the parent state.

And here it may not be improper to observe, that from the operations of an Act limiting the price of sugars to a certain standard, foreign refiners and grocers, not knowing whether the drawback, and payment of the bounty, will or will not be allowed, cannot depend on being supplied from the British markets; and should the sugars made in the British West India islands be thereby confined to the consumption of Great Britain and Ireland, the importation exceeding the consumption, the sugar planters will return again to that state of bankruptcy and ruin from which they are beginning to emerge.

The Committee have further to observe that the productions of the British West India islands are as much a part of the national wealth, as if the same had come to the port of London from any part of Great Britain; that every acre of land turned into a state of cultivation by the industry of the colonists, is an increase of wealth to the parent state. . . . An increase of wealth produces an increase of consumption, and, of course, renders every tax much more productive. And the Committee beg leave to add, in proof of the strength of these arguments, that from Monsieur Arnould's account of the balance of the French trade at the time the revolution took place, it appears that France exported to Italy, Holland, Germany, and the Baltic, sugar and coffee, the productions of her West India islands, to such an amount, that she received the immense sum of 120,000,000 of livres annually from this branch of her commerce; and Monsieur Arnould adds that, without it, the balance of trade would have been greatly against her.

The Committee are of opinion that, these matters being properly stated to Parliament, there can be no doubt that justice will be done to the British colonists. They therefore recommend to the House to instruct Mr. Fuller, the agent of Jamaica, to petition the House of Commons, praying for the repeal of that part of the Act passed last session, entitled, 'An Act for regulating the allowance of the drawback, and payment of the bounty, on the exportation of sugar, and for permitting the importation of sugar and coffee into the Bahama and Bermuda islands, in foreign ships,' which regulates the exportation of sugars from Great Britain to foreign markets. As to the measure of opening free ports in the Bahama and Bermuda islands, for the

importation of foreign sugars and coffee, the Committee are of opinion that, as these sugars and coffee are not to be consumed in Great Britain, but put *en depôt* in warehouses until re-exported, no great injury can arise from it to the British West India islands; and though there may be some danger that such a regulation may give considerable uneasiness to foreign states, particularly to France and Denmark, yet if the carrying trade of Great Britain can thereby be improved, it will increase the British navigation, and add to the security of this island. . . .

13 November 1807[1]

Mr. C. Grant, from the Committee appointed to inquire into the consequences of the present mode of imposing duties on sugar, made the following report:

Mr. Speaker,

Your Committee, to whom it was referred to inquire into and represent to the House the various consequences already felt, and which must ensue, from the present manner of imposing high duties on sugar, our principal staple, without fairly proportioning them to the value of the article, whereby the owners of it, when of an inferior quality, are totally sacrificed and ruined; and to report their opinion to the House how these duties might be adjusted, with impartial justice to the individual on whose property they are imposed, and with the least possible detriment to the public revenue, . . .

They have, it is hoped, anticipated the wishes of the House and the country, by taking a view, in the first place, of the situation of the sugar planter in this island; secondly, they have presumed to point out the modes of relief that may be applied to his case; and thirdly, in more strict conformity to their orders, they offer a plan for adjusting the duties payable upon the importation of sugar into Great Britain, which appears equitable in itself, and necessary to the welfare of the colony. . . .

[Many sugar planters, it is stated, were already bankrupt and the industry in Jamaica was faced with imminent ruin.]

Your Committee have thought it their duty to get the best account the shortness of the time would admit of the sugar plantations in this island, that have been thrown up since the year 1799, or which are now in the act of being thrown up, the proprietors having ceased to

[1] *Journals of the Assembly of Jamaica*, vol. xi, Jamaica 1819, pp. 618–20. Regulations of September 1804 had sought to exclude American trade and shipping, but sheer necessity had compelled a temporary suspension in July 1806. However, it was insufficient to offset the falling price of sugar, the diminishing profits, the scarcity of provisions, and the real hardships which were in marked contrast to the unparalleled prosperity enjoyed during the earlier war with France. Consequently three Parliamentary Committees studied the question of distress in 1807 and 1808 (see *Parl. Papers*, 1806–7 (83), vol. ii; 1807 (65), vol. iii; and 1808 (178, 278, 300, 318), vol. iv. Among various alleviations adopted were measures taken, as part of the blockade of Napoleonic Europe, to close the American carrying trade.

plant canes upon them. It has been obtained from the members of this House, whose information respecting their different parishes is not likely to be erroneous. The list contains sixty-five estates, the proprietors of which are, some of them, reduced to ruin, and others subjected to very great loss, in consequence of the abandonment of properties, the establishment or purchase of which have cost considerable sums of money. . . .

[Other instances of the ruin of sugar estates are reported. The Committee adduce the following causes: (i) the increase in 1799 of the duties on sugar imported into England; (ii) the fact that the total output of sugar from the British and conquered islands greatly exceeds the consumption in Britain and Ireland; (iii) the operation of the Berlin Decrees; (iv) Britain's tolerance of the neutral carrying trade.]

The most effectual relief, therefore, that the British planter, in the opinion of your Committee, could have, would be a blockade of the ports of the enemy's sugar colonies, by which 130,000 hhds. of sugar would be taken out of the markets of Europe and America; a deficiency which must be supplied, if the use of the article continue, by the consumption of British sugar.

If His Majesty's Ministers should not incline, from the relations that subsist with the neutral states, to give the colonies this relief, your Committee recommend that they be entreated, as an act of justice, to grant the colonies of Great Britain the same boon those of the enemy enjoy through their permission, viz. that during the war they open the ports of His Majesty's dominions in the West Indies to all neutral vessels whatever, allowing them to carry British sugar to any port of Europe, or wherever else an advantageous market may be found. It is hoped that such an application would not be refused; for it must appear to be an evident solecism in politics, that any nation, by a rigid adherence to rules made under different circumstances, should ruin its own colonies by rigour, and enrich those of the enemy by indulgence.

Should we unfortunately fail in obtaining relief by either of these modes, it is hoped that we may at least, by large bounties, be put upon a footing in the markets of Europe with the more fortunate colonies of France and Spain, which, it is now known, in consequence of the facility given by the neutral carrying trade, send their sugars to Holland, and the neighbouring countries, at a less expense by 8*s.* 11*d.* sterling per cwt. and to Italy, and the other countries bounding the Mediterranean, by charges amounting to 12*s.* 6*d.* sterling less than the British colonist can possibly do.

But independent of these great considerations, an attention to which only can avert the fate that now awaits the British sugar planter, in the opinion of your Committee, there is a radical evil in the mode of levying the duty upon the importation of sugar into Great Britain. It is obviously unjust that the planter should pay to Government the same sum, when his produce be worth 10*l.* per hhd. that he did when

it was worth 30*l.*; and to such a height have the duties and charges at home upon sugar arisen of late years, that in most cases the planter does not now get above one-third, and, in some instances, not above one-fifth of the gross value of his commodity, a disproportion which must shortly amount to a prohibition of the article. . . .

Your Committee beg leave to suggest a plan, which, as far as they know, has not hitherto been considered, and which, if approved of by the House, may be laid before Government by the agent of the island, for the consideration of His Majesty's Ministers. Were Government, upon the average price of sugar, to take a certain proportion of the value in duty, this good would result from it, viz. that, when sugars be low, the planter would not be oppressed in so great a degree as he now is; and, as his produce increases in value, his contribution to Government will increase with his means. It has been ascertained that the planter cannot derive an adequate interest from his property, unless he get fully 30*s.* sterling per cwt. from his sugar, clear of duty, of the island expenses above the rum, and of the mercantile charges of transportation to Great Britain; and this interest, considering the risks to which West India property is subject from hurricanes, of which Jamaica suffered the ravages of no less than five between the years 1780 and 1786, considering the liability to insurrections, the vicissitudes of seasons, and the gradual deterioration of his soil, which when new is fertile, and when old sterile, ought not in justice to be less than 10 per cent. upon his capital. . . . The results are, that upon this system [i.e. a Government duty of one quarter], when the average price of sugar be 60*s.* per cwt. the planter will have an interest of $2\frac{1}{2}$ per cent. upon his capital; that when the average be 70*s.* his profit will be $4\frac{5}{7}$ per cent.; when 80*s.* he will have it increased to 7 per cent.; and when 93*s.* 8*d.* he will receive an interest of 10 per cent. upon his capital.

Your Committee are well aware that such a mode, if adopted, would very considerably diminish the duties paid to Government upon 150,000 hhds. of sugar annually consumed in Great Britain and Ireland; but the affairs of this island have come to a melancholy crisis, and the question at issue is, whether Great Britain will preserve her sugar colonies at some sacrifice of revenue, or whether, by the impolicy of grasping at too much, she will ruin them entirely, and, to every beneficial purpose, lose them altogether.

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SIR STAMFORD RAFFLES TO THE DUKE OF SOMERSET, 20 August 1820[1]

Bencoolen.

. . . I am attempting to introduce the cultivation and manufacture of sugar on the same principle as in the West Indies, and to extend the coffee, pepper, and other plantations.

I find that a sugar-work may be established here at less than one-sixth of the expense which must be incurred at Jamaica; that our soil is superior, our climate better, and, as we are neither troubled with hurricanes nor yellow fever, that our advantages are almost beyond comparison greater. For instance, in an estate calculated to afford two hundred or two hundred and fifty tons of sugar annually, the land alone would cost eight thousand or ten thousand pounds in Jamaica, while here it may be had for nothing. The negroes would there cost ten or twelve thousand pounds more, while here labourers may be obtained on contract, or by the month, with a very moderate advance, at wages not higher than necessary for their subsistence. The other expenses of a West India plantation are estimated at ten thousand pounds more; so that before any return can be received, an outlay of at least thirty thousand pounds must be made. Here about five thousand pounds may be considered to cover every expense, including thirteen hundred pounds for machinery from England, and every outlay before the sugar is made. A gentleman has come over from Jamaica, and is establishing a very extensive plantation. He is now engaged in planting the cane, and, in about a year hence, he will commence his sugar. Water-mills, etc. have been applied for from Liverpool, and if the undertaking should turn out favourably, as I have no doubt it will, I trust it will not be long before his example is generally followed. Coffee and other tropical productions may of course be cultivated here with equal advantages; and, considering the present state of capital and labour in England, I cannot help regretting that the public attention is not turned to the advantages which might result from colonizing this part of Sumatra. Our advantages over the West Indies are not only in soil, climate, and labour, but also in constant markets. The West Indies always look to the European market, and that alone; here we have the India and China markets, besides an extensive local demand. The only thing against us is the freight, which is of course somewhat higher, on account of the greater distance; but if from the West Indies the planter could afford to send his sugar home at ten pounds per ton, war-freight, he may surely pay five pounds per ton, peace-freight, which is the present rate. In consequence of the advantages of this Island being unknown,

[1] *Memoir of Sir T. S. Raffles*, by his widow, pp. 466–8.

many British subjects have established sugar and coffee plantations in Java, and are, in consequence, now enriching a foreign colony by their labour and capital, while we are suffering from the want of both.

The present regulations of the East India Company are adverse to colonization; but under the existing circumstances of the country, I should think that body would not oppose any feasible plan which could be devised for affording relief. The Eastern Islands are so differently circumstanced to the continent of India, that the principle which is considered to apply against colonization in the latter does not hold good in the former. It is here by colonization, by European talents and Chinese labour alone, that the resources of the country can be brought forward, whereas in India the country is for the most part cultivated to the highest pitch, and occupied by an industrious race of inhabitants. . . .

The West India merchants and proprietors might at one time have inveighed against colonization in the East, and I know they were decidedly opposed to the retention of Java on this account: but the progress in Sumatra will be slow, and the abolition of the slave trade has so effectually destroyed their prospects, that they must necessarily retrograde, so that their opposition will be of less weight. At all events, what is done in Sumatra will take nothing from them direct; and, as far as I can judge, they would find it more to their advantage to embark themselves and their machinery, and change their residence to the East. The superior advantages there would soon repay the expenses of transport.

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ZACHARY MACAULAY: EAST AND WEST INDIA SUGAR, 1823[1]

. . . It may be considered as a point established beyond question, that the only limit at present to the growing demand of India for our manufactures is the power of obtaining adequate returns. It is scarcely possible to calculate the effect which may be produced on the looms and work-shops of this country by an impulse, however small, being

[1] Z. Macaulay, *East and West India Sugar; or a Refutation of the Claims of the West India Colonists to a Protecting Duty on East India Sugar*, Lond. 1823, pp. 98–103. *Zachary Macaulay*, a member of the Clapham Sect, had been a plantation manager in Jamaica, Governor of Sierra Leone (1793–5 and 1796–9), and Secretary to the Sierra Leone Company (1799–1808) and to the African Institution (1808–12). He was a founder of the Anti-Slavery Society in 1823 and became editor of the *Reporter*. In May 1823 he was one of the shareholders of the East India Company who called the attention of the General Quarterly Court to the matter of equalization of the sugar duties. (See also the *Reports of a Committee of the Liverpool East India Association*, Liverpool 1822; and *East India Sugar* (the so-called *East India Sugar Report*), 1822.) In May 1823 the West India interest in Parliament succeeded in defeating an attempt to equalize the sugar duties on East and West Indian sugar by a vote of 161 to 34, the handful of abolitionists voting with the East Indians.

given to the demand for their fabrics by a population of one hundred millions of our own subjects. And for what is it that we are called upon to sacrifice this brilliant prospect, this certainty of a continually growing demand for the productions of our national industry? We are called upon to sacrifice it for the sake of a market limited to much less than a hundredth part of our East Indian population, and the whole amount of whose consumption does not nearly equal the amount forced out of the pockets of the people to maintain our West Indian establishments, and to enable the planters to go on extracting from their miserable slaves, by the power of the cart-whip, the sugar which we have afterwards to buy at so costly a rate.

The folly of such a system as this might itself insure its condemnation; but, when viewed in all its bearings, and especially as it affects the commercial and manufacturing interests of Great Britain, the comfort of the East Indian peasant, and, still more, that of the West Indian bondsman, it stands marked with the strongest features of impolicy and injustice, and calls loudly upon the British Parliament for its revision.

We affect to encourage the growing demand for our manufactures among the population of British India, by limiting the impost, on their admission into that quarter of our dominions, to an *ad valorem* duty of 2½ per cent. But is the manufacturer of Manchester or Glasgow aware how effectually this apparent encouragement is counteracted by the protecting duty of 10*s*. a cwt. on East Indian sugar? We shall suppose him to obtain at Calcutta 1,000 cwt. of sugar for 1,000 pieces of chintz or muslin, the value of each cwt. of sugar and of each piece of his goods being there 20*s*. When he brings the sugar to England, however, he has 10*s*. a cwt. to pay upon it, before he can have leave for its being admitted to home consumption on the same terms with West Indian sugar. Is not this, in point of fact, the same thing as imposing a tax of 10*s*. a piece on his chintz or his muslin? He can obtain no more for his sugar, though he pays an additional 10*s*. upon it, than the West Indian obtains for his. To guard himself, therefore, against this heavy loss, he must demand for his 1,000 pieces of goods 1,500 cwt. of sugar, instead of 1,000; the additional 500 being in truth neither more nor less than an import duty of 10*s*. on each piece of his goods, which of course must operate greatly in lessening the demand for them in India, and the production of them in Great Britain. If a direct tax of 52½ per cent. were laid on the importation of our cotton fabrics into British India, we should doubtless have the table of the House of Commons loaded with petitions on the subject. A tax so extravagant and oppressive would excite universal and vehement complaint and remonstrance: it could not be maintained, but must of necessity be abandoned. But wherein does the present system, with respect to East Indian sugar, differ, as to its injurious effect on the manufacturing interests of Great Britain, from

the direct tax we have supposed? They are, in fact, identically the same, nor would there be a single remonstrance, however strong and pointed, nor a single prayer, however earnest and importunate, applicable to the case of the direct, which is not equally applicable to the case of the indirect tax. Disguise the process as we may, the effect, in diminishing our exports, is the same in both instances; and the result of removing the protecting duty (in the case we have supposed) would be to add 50 per cent. to the capacity of Indian sugar growers to buy our manufactures, and to increase in the same ratio our export of them. Are our statesmen, then, sufficiently aware of the deep injury they are inflicting on the nation at large (including the agricultural interests) by the present policy? Or, are the people of this country aware of the deep injury they are sustaining from it? If they were, I am persuaded that that policy would speedily be abandoned.

And here I must advert, for a moment, to an argument, in defence of the protecting duty, which I have heard urged more than once, but which, whether it be used by a statesman or by a merchant, is a proof either of his ignorance of the whole subject, or of his intention to mislead the public. 'What an unreasonable clamour', it is said, 'is made about this protecting duty on East Indian sugar! Why, it is only a penny a pound! What need the people of England care whether they pay 8*d.* or 9*d.* for a pound of sugar?' I reply, in the first place, that this penny a pound, of which some persons affect to speak so lightly, makes a million and a half sterling on the whole consumption of Great Britain. In the next place, it is equal to a profit of from 50 to 100 per cent. on the cost of the article. The half of this penny a pound would constitute a profit which the East India merchant would think most ample, or a loss which must be ruinous to him. A penny a pound! It is well for those to speak with levity of such an increase who are familiar with the profusion with which the nation has been in the habit of lavishing upon the West Indies its annual millions. But I am persuaded that the day is past, when such a tone can any longer serve the purposes of those who use it.

Only one word more, and it is an observation for which I am indebted to the very able pamphlet[1] on this subject which has just made its appearance. The West Indians, in pleading that the encouragement which was originally given to the growth of sugar in the West Indies constituted a compact of the most binding kind, seem to have entirely forgotten that this encouragement was given expressly for the purpose of our being supplied with sugar cheaper than we could procure it elsewhere, and not that we might pay a higher price for it than any of our neighbours.

[1] *On Protection to West India Sugar*, Lond. 1823, believed to be by Sir George Larpent: an answer to Joseph Marryat, which claimed that the removal of restrictions on North American–West Indian trade (3 Geo. IV, caps. 44, 45) had disposed of every justification for a West Indian preference.

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JAMES CROPPER: RELIEF FOR WEST INDIAN DISTRESS, 1823[1]

. . . They have never had any advantage from the monopoly of the home market. They have had an apparent advantage in the bounty; but I believe, inasmuch as it has led them to the neglect of their own concerns, it has done them a real and serious injury. On this account, however their claims may be without support, on the ground of right, of sound policy, or of common sense, the protection should not be withdrawn hastily, or without due consideration. But, if from its present tendency to perpetuate a bad system, it can be turned into that of promoting an improvement; if, instead of perpetuating slavery, it can be made the price of gradual redemption; then it will have its foundation in humanity and sound policy, and on that ground may be expected to continue so long as the necessity for it exists. If we can substitute a system which will put more money into the pockets of the West Indians, whilst it leaves the revenue unimpaired, and will give to the people of England their sugar at a reduction of 3*s*. per cwt., I shall have made a proposal worthy of consideration. That this may be done, it is now my object to shew.

The present system, by holding out encouragement to the growth of sugar only, turns the industry of the planters unprofitably into that particular channel. According to J. Marryat, the whole of their profits can only be estimated at 3*s*. 5*d*. per cwt., or about one per cent. upon their capital; and according to the Antigua petition, the present price yields nothing. Yet this country pays them 6*s*. per cwt. by means of the bounty on exportation. The sum thus drawn from the pockets of the people, or a part of it at least, is thrown away, and uselessly expended, in encouraging the planters to raise an article which after all pays them little or nothing.

The present system forces sugar into the refineries, so long as we have anything to spare for exportation. If, however, the time of this prospective monopoly advantage should ever arrive, the trade of refining for exportation must be entirely extinguished; but this system, so long as it lasts, has been shown to be peculiarly impolitic, giving away 250,000*l*. per annum, not for the benefit of this country, but for that of foreign nations. And, whilst a bounty is paid on the production of an article by slave cultivation, it prevents that change from slavery to freedom, which has always been preceded by a

[1] J. Cropper, *Relief for West-Indian Distress, shewing the Inefficiency of Protecting Duties on East-India Sugar*, Lond. 1823, pp. 28–33. *James Cropper*, a Liverpool East India trader and Quaker emancipationist, was from the duality of his position particularly liable to attack for interested motives, though there seems no reason whatever to doubt his sincerity.

reduced value of labour; and, of course, is an insuperable obstacle to the attainment of that degree of prosperity and happiness, which has been the glorious result in every country where the change has been made.

To remove all these disadvantages, I would propose,

1st. To give up the bounty on the exportation of refined sugar; and to substitute, for what the West Indians would lose by this, an absolute direct bounty of 6*s*. per cwt. on all sugar imported from the West-India colonies: this bounty not to be paid directly to the importer, but to be divided amongst the West-India proprietors, at the end of each year, according to the number of slaves now on the estates, as will appear by the Registry. By such arrangement, every proprietor would equally participate in the bounty, whatever change he might find it advantageous to make in his cultivation; and thus all that was paid by the country would go direct and clear into the pockets of the planters, though they now admit that they get but little of it;—

2d. To admit all sugars to entry at the duty of 30*s*. per cwt., whether the growth of the West Indies, British India, China, Siam, Java, Cuba, or the Brazils, attaching to the two latter the condition of the abolition of the slave trade;—

3d. To encourage the refining business, by admitting all sugars to be refined in bond; charging the duty on entering for home use, which should be moderate on the refined, and low, or none at all, on the molasses. This arrangement would operate as a bounty on the refining business, and would be an equitable and beneficial arrangement to the growers of low sugar, and to the consumers of molasses, and, being founded on principles of equity and sound policy, would be likely to be permanent.

The produce of the revenue would not be materially affected. It forms no necessary part of the plan that it should be so at all; but to shew the effect, I will estimate the present revenue on 150,000 tons, at 27*l*. per ton. . . . *L*.4,050,000

The bounty on export paid in 1822 was 189,218*l*.; but on an average of years about	250,000
Net revenue, . . .	*L*. 3,800,000
If from a gradual increase of the consumption now going on, and from a further increase which might be expected from extended commerce and some reduction in price, we may calculate on 160,000 tons at 30*s*. per ton, the revenue would be . . .	*L*. 4,800,000
Suppose the importation of sugar from the British West Indies to be reduced something below the average produce, say to 170,000 tons, a bounty of 6*s*. per cwt. would be . .	1,020,000
Net revenue, . .	*L*. 3,780,000

That the bounty on West-India sugar may not continue after it is no longer required by the planters, the rate might be reduced 1*s*. per cwt. when the growth reached 200,000 tons, and 1*s*. per cwt. for every

increase of 5,000 tons afterwards; so that it would entirely cease when the growth should have reached 225,000 tons; which, from what we see in the United States from the effects of improved treatment, and from natural increase of the slaves, might soon be expected.

This arrangement, of giving up the bounty on exportation, would reduce the price about 6*s*. per cwt.; but the duty being raised to 30*s*. would be an increase of 3*s*.; leaving the price about 3*s*. per cwt. lower to the consumer, without either loss to the revenue or to the planter; thus shewing the good effects of turning a bounty to our own benefit, instead of to that of our neighbours.

A bounty thus given, attached to regulations for the melioration in the condition, and final emancipation of, the slaves, would be consistent with sound policy. It would hasten the progress of the British colonies to that state of improvement, when they would no longer require pecuniary support from the mother country; but, with a prosperity, founded on the adoption of the best and most economical systems, enjoying their natural advantages, they would successfully contend with the productions of any other country. Instead of being under-sold by the colonies of Spain and Portugal, we should force them to give up the importation of slaves, and to adopt our improvements, or to be driven out of the markets of the world.

It now remains with the people of this country to choose whether they will, *without investigation*, submit to the enormous pecuniary sacrifices which, according to the West-Indian estimates, it will require to support them in their present system; whether we will restrain the industry of England, and close up against her the boundless resources of India; whether we will cramp our own energies, and submit to enormous pecuniary sacrifices, for no other purpose than to support the expense of holding in chains of bondage 800,000 of our fellow-beings;—or whether we will adopt an enlightened policy, suited to the times and the age in which we live.[1]

56

MAURITIUS: PETITION OF THE PLANTERS IN THE ISLAND TO GEORGE IV, May 1824[2]

. . . That urged by the general distress and commercial embarrassment which pervade this colony, Your Majesty's loyal and faithful

[1] East Indian sugar did not obtain equality of duty with the West Indian product until 1836.

[2] C.O. 167/72: enclosed in Sir Lowry Cole to Lord Bathurst, 25 May 1824. Cole declared that he was 'deeply impressed with the justice of their appeal to the equity of the Government . . .' and he 'respectfully and earnestly' solicited Bathurst's favour and support. There had been, he said, two recent hurricanes; the sugar industry in the island was comparatively new, and capital expenses in opening up new land were high; Mauritius had been highly favoured by France as was her

subjects beg leave once more to approach Your Majesty's throne, and humbly to represent the overwhelming difficulties they experience from the provisions of those Acts of Parliament which impose a consumption duty of ten shillings per hundredweight on the introduction of sugars into England from the possessions of the East India Company: which Acts, extended to the sugars of this colony, amount to a prohibition of their importation into England and are ruinous to its agricultural interests, at the same time that the high duties laid by other powers on the introduction of sugars not being the produce of their own colonies exclude Your Majesty's petitioners from foreign markets and thus the colony stands in a situation without precedent or example. . . .

Your Majesty's petitioners humbly represent that the principal production of the Mauritius is sugar and experience has proved that no other culture than the sugar cane can employ with any prospect of return, the capital and industry of Your Majesty's petitioners on account of the destructive and frequent hurricanes which prevail in these latitudes. . . .

[Mauritius is an African, not an Indian, island. It is cultivated by slave, not by free, labour. It enjoys none of the advantages of India, nor is it a possession of the East India Company. It suffers from the restrictions of the British imperial system.]

Your Majesty's petitioners, therefore, trust it will be perceived that, in admitting the produce of this colony into England for home consumption on a similar footing with the West India sugars, the inhabitants would still have to contend with the disadvantages of distance, a much heavier freight, a higher premium of insurance and a protracted return, all militating against the first principles of commercial undertakings and themselves sufficient to prevent the possibility of this colony competing with the West India markets.[1]

The Cape of Good Hope and Ceylon are in the enjoyment of most valuable privileges and the most encouraging support. The wines of the former which may be considered the principal production of that settlement are imported into England on payment of a very low duty; and cinnamon (the produce of the latter) is kept at a fixed price by the local government. But Your Majesty's colony of the Mauritius is without any such protection. . . .

[146 signatures.]

near neighbour, Bourbon—with which her close commercial ties were now severed. This plea was the last of a long series. An earlier memorial by the planters of Mauritius was considered by the Committee for Trade as late as September 1824, but they recorded their inability to recommend compliance (B.T. 5/33, p. 120).

[1] While Mauritius was exporting just over 1 m. lb. of sugar in 1812 and 28 m. lb. in 1823, it was producing over 62 m. lb. in 1834 (Customs 5/23). Sugar imports from Mauritius, however, had temporarily fallen from over 28 m. lb. in 1823 to under 22 m. lb. in 1825, due largely to the devastation of the plantations.

57

RESOLUTIONS OF THE COMMITTEE OF WEST INDIA MERCHANTS, 24 March 1825[1]

West India Dock House, London.

1st. That [discussions a year ago on the matter of the claim of Mauritius to equalization left it 'undisputed' that] no pledge existed under which this country was bound to admit the sugar and other produce of the Mauritius into British consumption on more favourable terms than such as are applicable to the produce of our East Indian possessions: on the contrary it was at that time shewn that the inhabitants of the Mauritius had deliberately and expressly objected to being placed upon the footing of colonies.

2nd. That during 15 years which have elapsed since the Mauritius has been in our possession she has continued to enjoy all the advantages (and to her they have been most important) of a commerce unfettered by those restrictions to which during the same period the West India colonies have remained subjected.

3rd. That the system under which it was the pleasure of the British Government for almost two centuries to regulate her colonial trade (although it was in many respects calculated to check their progress and did in some instances inflict upon them great loss and injury) has nevertheless in that long interval become habitual to the colonists and has occasioned intimate connections and dependencies which cannot suddenly be dissolved by a change of system in so much that a considerable time must elapse before the West India colonies can derive much benefit from those facilities of foreign intercourse which it is proposed to open to them.

4th. That in this important respect the situations of the West India colonies and of the Mauritius are widely dissimilar: the former submitting to impervious necessity are under engagements from which it is difficult for them within a short period to be liberated so as to have their free choice of markets,—and, even if that time had arrived, must look for their connections under all the advantages of inexperience and of an intercourse not yet established; while the Mauritius, already practically enjoying connections established under the free system, is to receive the gift of the most favourable access to

[1] *West India Committee* MSS., Minute Book of the Committee of Merchants, vol. vi. A copy was sent to the Chancellor of the Exchequer, to the Treasury, to the Colonial Office, and to the Committee for Trade (B.T. 1/207). The West Indians had fought equalization resolutely. The West India Committee of Planters and Merchants had submitted a Memorial on 31 May 1824 opposing it and on 2 June 1824 the West India colonial agents had added a strong protest (B.T. 1/186). The Government decided—despite these efforts to urge what was in detail a very inaccurate case—to equalize the duties on Mauritian sugar with those on the West Indian produce. When the Bill (6 Geo. IV, cap. 76) passed the Commons in June 1825 there was barely a quorum present. For the debate, see *Hansard*, vol. xiii, 1039–43.

British capital and the British market exactly at the moment when she is no longer called upon to make any sacrifice (a sacrifice indeed at no time made by her) in consideration for that boon. . . .

7th. That the Mauritius from its peculiar situation and habits affords extraordinary facilities for illicit slave trade and for the imports of foreign (as well as British) India which renders it a just object of jealousy to the West India colonies wherein such traffic is effectually prohibited, and that hence arises a reasonable distrust in any calculations of its future influence upon the British market which are built upon its present population and exports.

8th. That upon these grounds it is the opinion of this Committee that the admission of the produce of the Mauritius into Great Britain under colonial duties should be denied.

58

ANDREW COLVILLE, JAMES McQUEEN, W. R. KEITH DOUGLAS, AND ALEXANDER McDONNELL: EVIDENCE BEFORE A SELECT COMMITTEE OF THE COMMONS ON THE COMMERCIAL STATE OF THE WEST INDIA COLONIES, 1832[1]

Andrew Colville (25 January 1832)

. . . 294. Have the goodness to state to the Committee any opinions you have formed of what may be an immediate and adequate relief to the West India interest? The only effectual relief to the West India colonies must be in the shape of better prices or returns to the cultivator; and in the present state of the general sugar trade of Europe, I am of opinion that better prices or returns can be immediately secured to the cultivator only through the means of more encouragement to the export of the surplus importation into this country; in other words, by a bounty on the export of refined sugar. . . .

444. What do you contemplate as the effect of a bounty in this country on exportation, that of raising or depressing the price to the consumers?—That of raising the price, of course.

445. Would not, therefore, the consumption of sugar in this country, in consequence of such rise of price, be diminished?—In some degree, no doubt.

446. And the market of sugar in that degree reduced in extent?—There is no question of that.

[1] *Parl. Papers*, 1831–2 (381), vol. xx, pp. 702–16, 760–8, 738–9, 818. These were all members of the West India interest in Britain: *Colville* and *McDonnell* had connexions with Jamaica and Demerara respectively; *Keith Douglas* was a leader of the West Indians in Parliament; and *James McQueen*, a strong critic of the elder Stephen, was editor of the *Glasgow Courier*, which he made a leading organ in defence of the planters.

447. What would be the effect of reducing the duty upon sugar and lowering the price; do you not contemplate an increase in the number of consumers?—The first effect of a large reduction of duty would no doubt be to so far reduce the price to the consumer, as considerably to increase the consumption; but as regards the planter, I should not expect much benefit to accrue to him until the consumption of sugar in this country approximated to the importation.

448. The effect of laying on a bounty being to raise the price and to reduce the consumption, the effect of reducing the duty being to lower the price and to increase the consumption, which of the two methods of benefiting the planter do you consider would be most advantageous to the people of Great Britain?—I conceive that it is a matter of great importance to the people of Great Britain that the cultivation of the British West India colonies should be maintained. I have come to the opinion that unless a better price is obtained by the planter, and that immediately, because his state of distress has become critical, that cultivation cannot be maintained; if that cultivation be destroyed, the price of sugar in the general market of Europe must necessarily rise very much, as happened upon the occasion of the destruction of the island of St. Domingo, and consequently in my opinion, it has become the interest of the people of Great Britain to pay such a price for sugar as may be required to maintain the cultivation of their own sugar colonies, rather than to take the utmost advantage of circumstances to depress the price of sugar to the ruin of their fellow subjects, with a certainty of in the end paying an enormous and exorbitant price for their supply of sugar. . . .

James McQueen (6 February 1832)

844. Is the distress which prevails among the various interests connected with those colonies, the proprietors of the colonies and the mortgagees, at present urgent?—Exceedingly severe, hardly anything can be more so; I do not think it possible it can be worse.

845. State what the consequences are to the well being of the slave population in consequence of the poverty and distress of the master?—The greater the distress of the master is, the slave must suffer corresponding with that, though not to such an extent as would be immediately conceived, because so long as a master can get credit he must mortgage his property to support his slaves, but that now is entirely at an end. The master can no longer obtain credit, and the consequence must be the severest suffering among the slave population.

846. In what respects?—They will not receive the usual supplies of food, clothing, and almost everything for carrying on the cultivation of an estate. I know instances where those have not been sent out for the present year.

847. What will be the result on the comfort of the negroes?—It must take away their comforts to a corresponding extent; and it must retard the crops of the different estates, perhaps endanger some of them.

848. To what causes do you mainly attribute the distress you describe as so generally prevailing in the sugar colonies?—The causes of the severe distress are various, and may be divided into four or five different heads. The first is the great extension of the foreign slave trade, that is exceedingly great; in one year, ending 1830, there must have been at least 100,000 slaves introduced into the foreign colonies, about 57,000 of whom were imported into the Brazils alone, according to the returns presented to Parliament last year. . . .

878. Have you anything further to add with regard to the intercourse between the United States and the British colonies, and the British North American colonies, and the West India colonies?—For the reasons I have just stated, the trade which the United States had some years ago and before the ports were closed to the United States, ceased to be that advantageous trade for our colonies that it formerly was; the consequence of closing those ports against the United States was to turn the trade for those supplies to the British North American colonies; this at its commencement was in some measure disadvantageous to our colonies, inasmuch as they had to pay higher for some of the articles than they formerly paid to the United States of America; but as the trade extended and got consolidated that evil was lessened, and the colonies derived an advantage from the trade with the British North American colonies, which they did not and could not do with the United States, inasmuch as the increasing prosperity of those colonies enabled them to take off rum and molasses which the United States would not take, and which in some measure counterbalanced the higher price that our tropical colonies have to pay for North American supplies.

879. Have you any returns of the quantity of rum and molasses exchanged with the North American colonies at the period you mention?—I have not here accurate returns; I have in Glasgow, but not expecting to be examined before this Committee I did not bring them with me, but I can speak very positively that the increased imports of rum and molasses to the North American colonies is very considerable; indeed I have reason to believe from good information that the quantity of rum imported into the port of Quebec last year, was from fourteen to fifteen thousand puncheons, and I have been informed since I came to London by a commercial gentleman of the first respectability who has just arrived from Montreal, that the imports of rum into that port last year exceeded 13,000 puncheons, direct import as I understood him.

880. You have stated that there is very little rum and molasses sent to the United States of America in return for the lumber brought

there, since the trade was re-established?—Very little, if any; I have not seen any returns which give any.

881. Do you attribute that in some measure to the extent of duties imposed upon the articles coming from the United States?—Rather, I should say, to the duties imposed in the United States on those articles coming to that country.

882. Are you not aware, that when lumber and other articles come from the United States into the British colonies, high protecting duties are imposed upon them?—I am aware there are high protecting duties imposed upon them.

883. That may have the effect of restraining the sale, by diminishing the profit to the parties who bring the article?—I should rather say, from any information I have been able to obtain, that the Americans discourage the importation of British molasses and rum, on account of their production of molasses themselves; and long before this question came to be discussed and restrictions to be imposed upon them, they had, before they began to produce sugar and molasses, given every discouragement to the introduction of British rum and molasses, in order that they might encourage the distillation of spirits from grain among themselves. . . .

W. R. K. Douglas, Esq., M.P. (2 February 1832)

635. Has the direct intercourse with Europe now permitted been of any practical advantage to the colonist in your opinion?—I do not think it has been of any advantage; when the Act of the 6th of George the 4th, c. 116 was introduced by Lord Goderich, a strong impression was given to the public that the West India colonies were placed upon an entire new footing as regarded the freedom of trade, both as regarded a freer import of all articles into the colonies, and a free permission to export; but virtually I am of opinion, as the whole of that alteration was made subject to a reciprocity system, and subject to regulated duties, that there has been no absolute change in the intercourse in consequence of those regulations.

636. Will you explain how the reciprocity system affects the question?—We allowed the intercourse to favoured nations; as regarded the Hanse Towns, for instance, there was an attempt made to trade with our West India colonies, but as they could carry nothing from thence but the produce of their own country, and as their own country was so narrow as to afford no produce, no intercourse has since taken place; one or two unsuccessful attempts were made and it ceased; I believe, independent of that, the rate of duties at which that intercourse is permitted to countries of Europe, is a very sufficient reason in itself why the intercourse should not take place.

637. Do you conceive any further relaxation in the Navigation Laws, allowing other articles than those the production of other countries to be carried back to the West Indies, would have the effect of

opening a direct trade?—If this country intends to alter the whole of its colonial system, then a state of things will arise upon which I should not venture to give any opinion; but partial alterations such as have been hitherto introduced, I conceive tend to no facility whatever to the colonist, and only have been made use of as an argument against him, in stating that he has obtained a benefit which he has in point of fact not obtained, and the burthen that may remain in consequence of the remaining regulations is argued as not existing, and is used as a means of refusing him practical relief from positive restrictions and burthens which still continue, and which I conceive must necessarily continue whilst a colonial policy is maintained by any country. . . .

A. McDonnell (14 February 1832)

1354. If Great Britain were to cause to be repealed all the duties imposed upon the import of United States produce into the West India colonies, are you of opinion that then any large export of sugar would take place from the British West India colonies into the United States?—I think the extent of export would depend in some degree upon the value of the imports; and if the West Indians were more desirous of getting rid of their molasses and their rum, under the system of a perfectly free trade, those articles would be chiefly exchanged for their supplies. The reason why the British West Indies are now subjected to such heavy charges in raising their produce, proceeds from the restrictive system of America, in almost prohibiting the introduction of those articles the West Indians are chiefly desirous of getting rid of, namely, their molasses and their rum. In point of fact, I am persuaded that the pressure upon the colonists is more than is stated in these papers, from every information I can procure from practical men.

1355. You do not believe that any great relief would be given to the West Indians, from increased intercourse with the United States, by any act of this legislature, removing the duties which are imposed upon the import of the United States produce into the West India colonies?—Not unless there were a reciprocal treaty. It is my opinion that those matters regulating inter-national intercourse, ought to be adjusted, as I believe they formerly were adjusted, by reciprocal treaties, and not by general abstract legislation. If, for example, America were to alter her system completely, and form a treaty with this country to admit West India produce on free terms, and this country were to admit into the West India colonies their American articles on free terms, there is no doubt the West India colonies would be relieved from a very heavy burden in raising their produce.

1356. The mere act of this legislature without a reciprocal act of the United States legislature admitting freely rum and molasses into that country, you think would not be productive of material relief to the West India interests?—I think not; I think the Act of 6th

Geo. IV. which first altered the colonial system, was not adjusted according to reciprocal treaties; it gave no relief whatever to the British colonists. . . .

59

REPORT FROM A SELECT COMMITTEE OF THE HOUSE OF COMMONS ON THE COMMERCIAL STATE OF THE WEST INDIA COLONIES, 13 April 1832[1]

[The Committee consider the familiar West Indian case that an implied compact existed under which the trade of West India colonies was confined to the mother country in return for a monopoly of the home market. The abolition of the slave trade has increased the expense of maintaining the slave labour force, whereas since the peace of 1814 Cuba and other captured colonies, having been restored to rival powers, have continued to import large quantities of slaves from Africa.]

. . . The consequence of these events and circumstances is, according to the West Indians, this:—while the quantity of West India produce brought into the United Kingdom from the British colonies is greatly enlarged, that produce, being too plentiful for the English market, has to compete in the markets of Europe with an increased quantity of foreign produce. British colonial produce thus loses the advantage of the domestic monopoly, and its price is regulated, in a great measure, by the price of sugar in the European markets, supplied by the foreign colonies.

The same principles which dictated the abolition of the slave trade, have led the Government of the United Kingdom to adopt, in the colonies under the immediate control of the Crown, measures for the amelioration of the condition of the slaves, some of which diminish the proportion of their labour and produce to the charge which they occasion, and add to the expenses of cultivation.

In its competition with foreign countries, the colonial produce of Great Britain is also subjected to disadvantages, occasioned by the commercial and maritime policy of the mother country. Partial attempts, counteracted in a degree by circumstances to be presently noticed, have been made of late years to relieve the colonies from the effects of the restrictive laws. They have been permitted to carry on a direct intercourse with those countries of Europe and America which, by complying with the terms prescribed, have entitled themselves to such intercourse; but the importation of goods from these foreign countries has been clogged by discriminating duties, and there has been in fact scarcely any intercourse with those countries. In respect of the United States of America, the most important either for export or import, the intercourse has been from time to time suspended,

[1] *Parl. Papers*, 1831–2 (381), vol. xx, pp. 661–77. The Rt. Hon. T. P. Courtenay was Chairman.

renewed and modified; and has finally been permitted under a system of protection for the North American colonies, which, together with the uncertainty produced by frequent changes, renders it as yet doubtful whether, during the existence of that protection, any benefit will be derived by the West India colonies from its renewal. And in regard to some very material articles of supply, a strict monopoly is still maintained in favour of the mother country, or of her North American possessions. . . .

Among the artificial causes alleged by the West Indians as diminishing the consumption of their produce, is the high duty imposed upon it in the mother country. Upon the main article of produce, sugar, this duty is imposed for financial purposes alone; but the article of rum is subjected to a duty, made higher for the protection of the corresponding produce of the United Kingdom. This last, therefore, is one other and peculiar restriction upon the disposal of West India produce.

Still another is to be added; molasses, one of the products of the sugar cane, are excluded by law from the distilleries and public breweries of the United Kingdom.

These are the artificial causes of the present condition of the West India colonies, and for this the West India proprietors claim a compensation, not proportioned to that which they have alleged as the amount of the injury, but sufficient to enable them to compete upon equal terms with the foreign grower.

It will readily be seen that the several causes which have been noticed differ materially in their character, in the possibility of being removed, and in the degree of claim which they afford to compensation.

It can scarcely be necessary for your Committee to observe, that where a burthensome regulation can be removed, it is much better to remove it than to grant a compensation. In proceeding therefore to a detailed examination of each of the alleged grievances of which the colonies complain, they will first treat of those which appear susceptible of this preferable mode of remedy.

Under this description, indeed, may come all the legislative restrictions except those which have reference to slavery; for although the House may not be prepared to remove them all, there is not one of which the removal may not be a subject of discussion.

A recapitulation of the 'Commercial Restrictions', so described, is to be found in the papers submitted to the Board of Trade. They are here said to impose an annual charge upon the West India colonies of no less than £1,392,353. This sum being apportioned to the several articles of West India produce, the charge upon sugar is stated at £1,101,000, and as the sugar imported is 3,972,387 cwts., the burthen upon each cwt. by this mode of calculation, is 5*s.* 6¾*d.* If this statement be correct, the removal of the commercial restrictions would occasion

a deduction of 5*s.* 6¾*d.* from the sum of 24*s.* 2*d.* alleged as the cost of bringing to market a cwt. of sugar: 18*s.* 7¼*d.* would thus be the sum to be set against the assumed price of 23*s.* 8*d.*, leaving a balance of 5*s.* 0¾*d.* in favour of the planter, instead of 6*d.* against him.

The component parts of this sum of 5*s.* 6¾*d.* as affecting sugar, are nowhere distinctly stated; but it may be calculated from the summary of restrictions affecting all articles. . . .

[1. Importation of fish. 2. American supplies. 3. British manufactures. 4. Freights.]

Your Committee now leave those causes of distress which appear susceptible of removal or modification. They are now to advert to the other, and according to the representation of the colonists, much more operative causes, concerning which there arises no question but that of compensation.

The first of these causes is the addition made to the British sugar colonies at the peace of 1814.

The extension of territory, and the acquisition by the mother country of more fertile, and therefore valuable possessions, cannot reasonably be admitted as giving to any part of the more ancient Empire, a right to be compensated for the depreciation of its produce. In the general advantages of that acquisition, be they more or less considerable, the whole Empire, domestic and colonial, participates; and it would be as reasonable for an English landholder to complain of the effect of the corn and cattle of Ireland, admitted on the principle of the Union, as for a planter in Jamaica to urge that his produce is become cheaper since Demerara has been added to the British dominions. Your Committee must observe, in justice to the West India body, that this extension is not adduced by them as any ground of claim; in that body, indeed, and among the complaining sufferers, are included the proprietors of the new colonies. Your Committee, however, cannot leave this topic without giving their opinion, that this extension of the sugar colonies of Great Britain is, in truth, one of the most operative causes of existing distress.

Your Committee now advert to the point on which the greatest stress is laid by the West Indians—the abolition of the slave trade, unaccompanied by the abolition on the part of all foreign states.

It is alleged that an increased charge of no less than 15*s.* 10*d.* the cwt. of sugar, is thus occasioned, that is, 11*s.* as the greater cost of rearing slaves in our colonies, than of purchasing them in the foreign colonies, and 4*s.* 10*d.* as the loss sustained by the smaller proportion of slaves effective for work. . . .

On referring to the papers laid before the Board of Trade, the House will have the opportunity of examining more minutely the grounds of this calculation: your Committee feel bound to remark that the several details are not supported by the evidence before them; and that for the several reasons following, as well as others, they cannot

recommend this statement to the House as the fit ground of any proceeding or decision. . . .

They do not conceive that exactness is either possible or necessary; because, on the one hand, it can hardly be contended that the planters ought to be, or can be, compensated according to any precise rule, for the loss which they derive under the abolition of the slave trade; and on the other hand it can scarcely be denied that a pecuniary loss, by no means inconsiderable, has resulted from that measure.

Having thus given their reasons for apprehending that the estimate of loss by the abolition laws is somewhat exaggerated, your Committee have no hesitation in submitting to the House their opinion, first, that some loss, and consequently some part of the present distress of the colonists, is occasioned by those laws; and, secondly, that such loss constitutes a fair ground of claim for compensation. And they observe that the claim preferred on behalf of the West Indian body, is not commensurate with their estimate of loss. What they solicit is, to be better enabled to compete with the foreign grower, in the market of Europe. With this view they desire an additional drawback or bounty on exportation, calculated upon a duty exceeding by six shillings that which they actually pay. Your Committee cannot admit equalization as a principle: British colonists, like all other proprietors, must sustain the effect of any advantage which other countries may enjoy, except where their relative situation is affected by British laws: and the question therefore still returns, whether the injury sustained by the colonies, under those laws, entitle them to the relief which they seek, and in the degree and in the mode in which they ask it. A proposition has been made to your Committee to admit foreign sugar for refining at a distinctive duty of six per cent. beyond what is paid on sugar the growth of British colonies, on the condition of allowing the drawback on all refined sugar exported, at the highest rate of duty. It was stated that this arrangement would be acceptable to the merchant trading to Brazil and Cuba, to the British West India planter, and to the refiner; and that it was considered by these parties a fair basis for adjusting their several interests. It was also stated that, in the event of the present surplus of British sugar being consumed in this country, the raw sugar necessary to refine for exportation would be supplied from foreign countries; and that the drawback in that case would be merely a return of the duty paid upon importation.[1]

As the proposed bounty would impose a heavy charge upon the public finances, Parliament and the country will naturally expect a strong case to be made out, before this charge can be sanctioned; and your Committee, admitting the justice of the claim in principle, feel compelled to observe, that the evidence of the amount of actual injury is not so specific and positive, as to enable them to recommend to the

[1] A case for a bounty had been made very strongly in evidence by members of the West India interest.

House the adoption of any given rate of compensation. In addition to the deduction which, according to their suggestion, must be made from the estimate of the West Indians, further allowance must be made for the insufficiency of the evidence, as to the expenses of the foreign grower; and above all for the want of proof whether his superiority does not consist, in a greater degree than has been allowed, in those natural causes which common consent has excluded from consideration.

There are other grounds upon which your Committee, even if they were satisfied as to the amount of compensation due, would doubt as to the fitness of a bounty. However accurate and sound might be the notions of your Committee in recommending it, upon the pure ground of compensation, to a British proprietor, for loss sustained under Acts of State, it might be very difficult to distinguish it, in the eyes of the country, from those provisions of an exploded mercantile system, whereby failing trades have been supported, and uncongenial productions forced. Even in the House the representatives of various suffering interests might be led, by a fallacious but plausible analogy, to ask for similar relief. If the loss could be appreciated with precision, it might be wiser to place the compensation at once in the hands of the proprietor, in proportion to the extent of his property or produce, than to afford him an artificial and circuitous compensation, at the risk of a still further derangement of the natural course of trade.

There are still other objections to the bounty. It is not by the payment of the bounty upon sugar exported, that the planter is to be relieved; he hopes, by that bounty occasioning an increased export, and lessening his dependence upon foreign prices, to raise the price of his sugar in the home market; and in estimating the compensation to be paid by the country, the whole amount of this enhancement of price must be added to the sum actually paid as bounty. And it must never be forgotten, that a rise of price in the home market, by whatever means effected, must, as it tends to lessen consumption, operate in a precisely opposite direction to a reduction of duty.

There is another difficulty attached to this and to other methods of removing distress. Higher prices have a tendency to increase production; productiveness, and the possibility of extending production, are very unequal in different British colonies, and are greater in some of the new colonies than in the old. A bounty given in common to Dominica and to Demerara, may have the effect of bringing to market from the newer acquisition an augmented quantity of sugar, to compete with the more limited produce of the old possession.

Upon all these considerations, your Committee forbear to recommend any alteration in the existing drawback. . . .

[West India planters are mortgaged heavily to the West India merchants, who not only arrange interest and credit but also organize freight and supplies.]

Your Committee are not prepared to concur in a suggestion, which

appears in the evidence, that in consequence of these restrictions the planter generally pays a higher price for any article, or a higher rate of commission or interest on advances, than he would pay in the same market, if, though in debt and distressed for money, he were perfectly free from the engagements described; nor are they prepared to say, that if perfectly free, he would resort to any other market: but they cannot avoid observing, that this system of encumbrance would of itself be sufficient to render unavailing all the measures adopted of late years for giving to the colonies the benefit of foreign markets.

The charges, direct and indirect, to which the mortgaged estates are subjected, have been represented by some witnesses as amounting to not less than 10 per cent. upon the debt. It is obvious that such encumbrances must greatly aggravate the distress of the proprietors of these estates; and although there are certainly some unencumbered estates, the proportion under mortgage is so great as to justify your Committee in representing the prevalence of these mortgages with all their consequences, as not merely a symptom, but a pregnant cause, of the accumulated body of distress.

In the present situation of West India property, it is impossible to obtain loans in any other mode than that of advances by the merchant consignees; planters are thus unable to free themselves from the troublesome encumbrances, or if still unencumbered, to raise money for any other purposes.

Your Committee have been led, by a consideration of these circumstances, to entertain a suggestion for advancing money from the public Treasury on the security of West Indian estates. . . .

It may be urged, in the first place, that the relief of a suffering interest can at best produce only a temporary alleviation of distress; those whose capital is employed in a particular manner must take their chance with others, and such special relief interferes with the natural application of capital and course of trade, and furnishes a dangerous precedent.

To objections of this nature your Committee, referring to the considerations urged at the commencement of their Report, in reference to the peculiarity of West India property, would answer, first, that the property which they purpose to relieve cannot be transferred or otherwise directed; secondly, that the distress, and this incapacity of transfer, are attributable, in great measure, to Acts of Parliament and the Government. The state of property in His Majesty's dominions furnishes no similar case, and there will therefore be no dangerous precedent, even if it be admitted that loans upon good security are generally an unwise application of public funds.

But another objection arises from the apprehension that the security will *not* be good; that plantations and slaves will come into the hands of Government, whereby a loss, as well as great embarrassment, will be sustained.

Without entirely disregarding this objection, your Committee would observe, that it does not appear that estates have come extensively into the hands of the lenders, even when subject to the higher rate of interest; and that, as the principle upon which the loans would be made would properly lead to much liberality in the lender, there is no reason for much apprehension of the contemplated evil.

There is a third objection, in the possible stimulus which the loans might afford to increased production. To this objection your Committee attach so much weight, that they deem it worthy of consideration whether those colonies which came into the British system since the abolition of the slave trade, and these happen to be the colonies the most capable of augmented production, might not, upon sound principles, as well as upon their practical nature, be excluded from the arrangements. They are aware, however, that many proceedings subsequent to the abolition have tended to bring these colonies into difficulty, and that the measure of relief might be deemed incomplete, if any of the British colonies were excluded from its operation. . . .

[The planter, unlike the English landowner in a period of distress, 'can neither sell his property nor mortgage it, except under the onerous conditions hereinbefore described'.]

This consideration leads your Committee to advert to one cause of the depression of the whole West India interest, which several of the witnesses represent as most important. The agitation of the slave question in Great Britain has tended to diminish the feeling of confidence of the West Indian proprietor in the security of his property, to check the investment of capital, and to increase the difficulty of effecting sales and mortgages.

It is not for your Committee to pursue this topic further, or to suggest the means by which confidence may be restored. They trust that the importance attached to it by the colonists, as bearing heavily upon 'the commercial state of the West India colonies', will justify their allusion to this sense of insecurity, and that if its causes be beyond the control of Parliament, the House will at least deem it an additional motive for receiving favourably those other suggestions, with which it is in their power to comply. . . .

[Distress, they note, is no new cry: it was voiced long before the abolition of the slave trade. Over-production is a root cause.]

The West India colonist not only feels, with any other proprietor of land, the difficulty of altering the application of his capital; he not only feels, in a greater degree than proprietors in general, the difficulty of changing the appropriation of his soil; he is subject to a burthen peculiar to himself, that of maintaining, be his profits what they may, the whole body of labourers, and of their families, existing upon his land. He is compelled too by a law of which public considerations forbid the repeal, to maintain them in industrious

employment, and is thus under the necessity of producing and reproducing the very article, of which the superabundance depresses him.

All these considerations your Committee now submit, with due deference, to the judgment of the House.

E. THE PROMOTION OF CERTAIN STAPLES

(*a*) *The Fisheries*

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SOUTHERN WHALE FISHERY: MEMORIAL SUBMITTED BY SAMUEL ENDERBY (AND OTHERS) TO THE LORDS COMMISSIONERS OF THE TREASURY

6 January 1786[1]

. . . *Sheweth*

That your memorialists began the Southern Whale Fishery in this country at the commencement of the war with America, from whence it was carried on before to a very great extent; from the Island of Nantuckett alone they sent from 120 to 140 sail of vessels on the spermaceti whale fishery annually;[2] it being a new fishery here and very expensive, Government in the year 1776 granted the following encouragement for eleven years, £500 for the ship that should obtain the greatest quantity of oil, £400 for the next greatest quantity, £300 for the next, £200 for the next, and £100 the next; this encouragement has been found so inadequate to the intent that the fishery has been twice reduced to 3 ships, the outfits being from £1,000 to £1,600 each, besides the cost of the ship, that those who have not been so fortunate as to obtain oil enough to entitle them to one of the largest premiums, have lost considerably.

Your memorialists humbly propose for the more effectual mode of encouraging this fishery, that the following bounty be allowed in place of the premiums which are near expiring; that forty shillings

[1] B.T. 6/93. *Samuel Enderby* had been a leading merchant in the Southern Whale Fishery since 1776 when efforts had been made to undertake whaling from the mother country. He was naturally anxious that the prospects of the Southern Whale Fishery should not be endangered from foreign competition by the withdrawal of the bounties which were fostering its growth. Others associated with Enderby and Sons in this memorial were John St. Barbe and Alexander Champion.

[2] See G. S. Graham, 'The Migrations of the Nantucket Whale Fishery' (*New England Quarterly*, vol. viii, No. 2, 1935). Spermaceti oil was cheaper, cleaner, and sweeter for illumination purposes: it was a fine lubricant for machinery, and was used in many manufactures.

per ton be allowed for 3 years on all British vessels (which are free according to the Act of Navigation and are solely owned in Great Britain) from 70 to 250 tons measurement, and fitted out from thence for the Southern Whale Fishery after the 1st of February 1786, and that no advantage of the bounty may be taken by going to the Greenland seas or Davis's Streights, the fishery to begin to the southward of 59 degrees 30 minutes north latitude, which are the limits of the Greenland seas and Davis's Streights: after 3 years the bounty to be reduced to 30 shillings per ton: no ship to be entitled to any bounty, without she brings home 50 tons of oil all of her own catching and curing on that voyage taken to the southward of the Greenland seas and Davis's Streights, or has been out 8 months, and that she brings the whole of what she took during that voyage: which will be a sufficient guard against any adventurers fitting out for the bounty alone, and no ship to be entitled to the bounty which makes a trading voyage, and that three men and one apprentice from 14 to 18 years of age be carried for every 50 tons bounty paid by Government with 4 lines, 1 dozen harpoons, 6 lances for every 50 tons as above, and every ship measuring 200 tons and upwards shall carry 3 whale boats, and every ship under that measurement 2 such boats. No time can be fixed for the sailing of the vessels, as they are fitting out at all seasons of the year, either to the coast of Brasils, Guinea, Falkland Islands, West Indies, or elsewhere, as it almost requires sailing at different seasons for each of the above named places.

Your memorialists recommend on the arrival of the ship, that the master, mate and two mariners make oath to the latitude and longitude where each whale was caught, and the quantity of oil produced from them, and that there be a penalty of £500 on the master, on discovery of any American or other foreign oil taken on board: and to prevent combinations between masters and crew, the sum of £100 to be paid to the person, out of the above penalty, giving information of the same: the owners to stop what is due to such master towards paying the penalty, such discovery being made within one month after the ship's report at the Custom House, or the owners to make good the penalty if they settle with the master before the expiration of that time; and that the mariners may be informed of the encouragement given upon discovery of any frauds being committed, a printed paper be stuck up against the mainmast of the ship at the time of mustering, by the Surveyor of Navigation.

Your memorialists conceive the before mentioned bounties will fully answer the purpose of encouraging the Southern Whale Fishery, without imposing on Government, as the thirty shillings per ton will be but a small proportion of the expense on an unsuccessful voyage: and your memorialists have proposed the bounty of 40/- per ton for 3 years, as they know it will be an inducement to the Americans to settle in England, and it will be the means of establishing the fishery

here in preference to Nova Scotia, where it will be out of the power of Government to prevent American oil from coming here free of duty, and from its near situation to the Massachusetts, will be a cover to a great deal of American property and whaling vessels, besides the disadvantage of the nursery of seamen being in America, from whence it will be difficult to get them in case of a war.

Your memorialists further request they may have permission to go round the Cape of Good Hope, where they are credibly informed there are great numbers of whales, and as the fishery at the Brasils has been carried on about 10 years, the whales from the great numbers killed and wounded begin to be wilder, which in time will make success more precarious; but could they obtain permission to go round the Cape they have no doubt of success.

Your memorialists likewise request that the duty of £18 3/- per ton on American and all other foreign train oil may continue, as an inducement for the Nantucketers to settle here [i.e. instead of in Nova Scotia],[1] and for the encouragement of the seamen to go in this fishery, we recommend that the harpooners, boat steerers, and line managers be protected in case of a war.

Your memorialists submit this plan for your Lordships' approbation, if anything more, or different, from what is above suggested, should be thought necessary to guard against frauds and impositions respecting the bounty which they pray for, or against clandestinely importing American or other foreign oil they will very readily conform thereto. . . .

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NEWFOUNDLAND FISHERY: REPORT OF THE COMMITTEE FOR TRADE, 17 March 1786[2]

. . . And the Committee having perused and considered a representation of the Lords Commissioners for Trade and Plantations, made to His Majesty King George the first in 1718 which gives a very full account of the state of the Newfoundland fishery previous to that

[1] This proposal made by Governor John Parr of Nova Scotia on 27 July 1785 (C.O. 217/57) was objectionable to whalers in Britain because the Nantucketers would there be able to retain their old connexions with the Boston merchants. In May 1786 the Committee for Trade did consider inducements to attract the Nantucketers to Britain and Parr was reproved for his proposed action. In 1790 Stokes was sent by Grenville to negotiate the emigration of the Nantucket whalers to Milford Haven. By then the Southern Whalers were well established in Britain and, fearing their competition and experience, preferred to dispense with their services.

[2] B.T. 5/3, pp. 471–7. The impending expiration of the bounties paid for British vessels from Europe in Pallister's Act of 1775 had led to a reconsideration of this question in January 1786. This report is very similar in reasoning to those of 1671 and 1718. In Jenkinson's view Newfoundland was to be considered still as a great ship moored off the fishing banks, not as a colony or place for settlement with its attendant problems—and possibility of secession.

period, and of the policy which the Government and legislature of this kingdom had from the first establishment of that fishery, adopted and pursued in respect to this great object, do concur in general in the opinions entertained by the said Lords Commissioners on the following points:—

First. That the Newfoundland fishery ought to be carried on as much as possible by ships fitted out from Your Majesty's European dominions; that by the yearly return of the sailors and fishermen to the said dominions,[1] Your Majesty may have it in Your power to avail Yourself of their services for manning Your Royal Navy when occasion may require.

Secondly. That Your Majesty's subjects who may from time to time reside in Newfoundland, ought never to be allowed to form themselves into a colony, and with that view to possess in fee any landed property there.

Thirdly. That the shores of Newfoundland, the beaches and other convenient fishing places ought to be carefully reserved for the accommodation of Your Majesty's subjects resorting thither from Your Majesty's European dominions for the purpose of carrying on the said fishery.

And *fourthly.* That Your Majesty's subjects who so resort annually to the said Island of Newfoundland, should be induced and compelled by every wise and proper regulation, to return to Your Majesty's European dominions at the end of every fishing season; but with respect to this last point, the Committee think it proper to observe, that from a change of circumstances, it may now be beneficial to the fishery that a certain number of persons should be suffered to remain on the said Island after the fishing season, for the purpose of taking care of the fishing stages, boats and other necessaries for the fishery, and to make preparation for the ensuing season, as our fishermen will be thereby enabled to commence their fishery at a more early period, and have in consequence thereof, an advantage over other nations who are our rivals in the said fishery; but the Committee are of opinion that in true policy the number so suffered to remain should not exceed the number absolutely necessary for the above purposes.

The Committee are however of opinion, from the most satisfactory proofs, that the number of persons who at present usually remain during the winter in Newfoundland, is much greater than sufficient for the useful purposes before mentioned, as appears by the paper No. 2[2]. . . as well as by other information they have received, and that if proper measures are not taken to prevent it, they are likely to increase.

The Committee having premised these several points, will now pro-

[1] The Committee of Merchants in their petition for bounties on 25 February stated that 156 vessels, 450 boats, and 5,560 hands went out and returned to Dartmouth each year.

[2] The enclosures are omitted in this extract.

ceed to submit to Your Majesty their opinion on the clauses of the Bill proposed to Parliament in the last session, and they will deliver their opinion on the several clauses, not in the order in which they stand in the said Bill, but in such order as best corresponds with the principles before stated.

The second, third and fourth clauses of the proposed Bill are avowedly intended to vest part of the shores and soil of Newfoundland in the present occupiers, to be held in fee simple, and thereby to transfer to individuals for private purposes, what ought to be reserved in common for a great national good. The shores and soil of that Island would thus become subject to all the rules of ownership, the proprietor might employ his estate either in carrying on the fishery, or in a manner less beneficial to the public—if very opulent, he might by purchases engross many of the fishing places, and by the exclusion of others, obtain advantages contrary to the general interest of the fishery, or he might become insolvent and incapable of carrying on a fishery. The shores so appropriated would immediately create disputes, either about boundaries or titles, which would produce law suits, where there are no proper judicatures for the decision of them. The number of residents would be increased, and a colony would be insensibly formed, which would by degrees deprive Your Majesty's European subjects of any share in this fishery. . . . And having received the report of the said Law Officers upon the questions so referred to them [i.e. the possible acquisition of residential rights], the Committee . . . advise Your Majesty to give Your Governor of Newfoundland the following instructions on this subject.

First. That the ancient ship-rooms and fishing-rooms should continue under the provisions of the Act of Parliament passed in the 10th and 11th years of the reign of King William, Cap. 25 for the encouragement of new adventurers, that they may be sure of finding proper and convenient places for curing, salting, drying and husbanding their fish whenever they resort thither. Secondly. That the remaining shores of Newfoundland should be held by such of Your Majesty's subjects, resorting thither from Your Majesty's European dominions, as shall first take possession of them for the purpose of carrying on the fishery in proportion to the number of ships and boats they shall employ, and that they shall continue to hold the same for the like purposes, and in like manner, so long as they shall carry on their fishery there; but that in case they shall neglect so to carry on their fishery there for one entire season, such shores or parts thereof as shall be so neglected or deserted, shall be held for the like purpose, and in like manner, by any other of Your Majesty's subjects resorting thither from Your Majesty's European dominions who shall first occupy the same for the purpose of carrying on the fishery, and that the Governor should put and maintain such person or persons in possession thereof. . . .

[3. No buildings to be erected within 300 yards of the high-water mark.
4. Existing buildings to be allowed to remain at the Governor's discretion.
Finally, the Committee consider the seventh clause of the Bill which would have repealed the provision of the earlier Act that reserved half of the fishermen's wages until their return, in order to discourage settlement.]

It is true, however, that in the case of boys or green men, who may not receive above the sum of £7 10 for their voyage, the half may not always be sufficient for their clothing. The Committee are therefore of opinion that the said clause of the Bill may be so far amended as to allow a sum not exceeding £5 10 to be advanced to green men and boys, though it amounts to more than half their wages, provided the master continues equally bound to bring back such green men and boys at the end of the season. . . .[1]

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SOUTHERN WHALE FISHERY: MINUTES OF THE COMMITTEE FOR TRADE

March and May 1786

17 March 1786. [Evidence.][2] At the Council Chamber, Whitehall.

Committee of Council appointed for the consideration of all matters relating to trade and foreign plantations.

Mr. Samuel Enderby and Sons, Mr. Alexander Champion and John St. Barbe, merchants concerned in the Southern Whale Fishery, attended and were examined as follows.

Q. How many ships were fitted out for this trade in the year 1783?

A. Four from London which went upon the Southern Whale Fishery and 4 from Poole and one from Bristol which went to Newfoundland.

Q. How many in 1784?

A. Fourteen from the port of London for the Southern Whale Fishery, and one which was supposed went no further than Gibraltar. It is to be understood that these ships returned in the above mentioned year, but fitted out in each preceding year.

Q. How many in the year 1785?

A. Seventeen for the Southern Whale Fishery, and one for Gibraltar, all which may return in the course of this year.

[1] On 29 March 1786 Jenkinson introduced a Bill to preserve the Newfoundland Fishery as a nursery for British seamen on the lines recommended here; but it failed, as its author confessed to Chalmers in April 1792 (B.T. 6/57), to achieve its purpose. Dartmouth and Poole lost their monopoly and larger ships from other ports came to the fisheries, manned by fewer men. Newfoundland became increasingly important as a commercial concern and less so as a 'nursery'. The wars curtailed the operations of the fishing-fleets from Britain, and the Newfoundland Fishery became more and more a resident occupation. A Judicature Act, which recognized the need to establish law and order, was renewed regularly after 1792 and was made permanent in 1809—the basis of the legal structure of a *colony*.

[2] B.T. 5/3, pp. 263–6.

Q. How many in 1786 to return in 1787?

A. We do not know for the ships do not fit out till after the 1st of August.

Q. What is the quantity of oil which a spermaceti whale produces?

A. One whale produces about 10 ton.

Q. What quantity does she produce of refined spermaceti?

A. About one ton of spermaceti coarse, which when refined comes to about 4 cwt.

Q. Does she produce anything else that is valuable?

A. No, she produces no bone, nor anything else valuable, except the oil and spermaceti.

Q. What do you think a reasonable voyage for one ship?

A. Fifteen fish which will produce 60 ton of oil besides head matter.

Q. From your experience, what are the parts of the ocean in which the spermaceti whale is found in greatest abundance?

A. We find them from the Cape de Verde Islands to the coast of Brazil, but in the greatest abundance in the latitude of 31 to 36 south.

Q. Is there any particular season in which these fish are found in greatest abundance?

A. They are found in greatest abundance from the beginning of October to the end of April.

Q. Are they found in greatest abundance near the shore, or at what distance from it?

A. At the edge of the soundings, about 40 leagues from the coast.

Q. Have you any reason to suppose that great quantities of the spermaceti whale are likely to be found in any of the seas off the Cape of Good Hope, or to the eastward of it?

A. Yes we have very good information from captains and mates of East Indiamen, and in proof of it they have produced quantities of ambergrease, which is part of the dung of these whales.

Q. Is not ambergrease itself a valuable commodity?

A. Very valuable, worth 8*s*. the ounce.

Q. Is it ever found in the spermaceti whale?

A. Mr. Enderby never heard that it was. If it is, the sailors do not let us know but sell it privately.

Q. Is it ever found upon the sea by those who are fishing for these whales?

A. It is. It has been found near the Cape de Verde Islands, but the sailors always conceal it from us.

Q. Of what country are the principal fishermen you now employ?

A. They are all Americans; but Enderby has this year sent out one north countryman, and we hope that by degrees our people will learn the art.

Q. Are these Americans residing in England when not employed in this fishery?

A. They are all resident here; Mr. Enderby has had some of them in his employ for these ten years.

Q. Have they families established here?

A. In general their families are housekeepers in England.

Q. Are the French endeavouring to get your people from you?

A. They are and offer great encouragement. They have got some over to whom they pay a great deal; but their fishery has been very unsuccessful.

Q. Have you ever exported any spermaceti oil?

A. Yes, about 400 ton in all. Mr. Enderby has exported this year between two and three hundred ton. It goes from hence to Ostend and Dunkirk and as we believe from thence to France.

30 March 1786. [Report.][1]

Their Lordships resumed the consideration of the Petition of the Merchants concerned in the Greenland Fishery, praying a continuance of the Bounty, as also the Petition of Samuel Enderby and others relating to the Southern Whale Fishery, and their Lordships came to the following Resolutions thereupon:

That it be proposed to Parliament that a Bounty be granted of 30/- pr. ton for five years from the expiration of the present Bounty, to all ships going on the Greenland Fishery[2] and that at the expiration of two years from the time the said Bounty of 30/- takes place, it shall not be granted upon any ship for more than 350 tons, and that it be a *condition* that no ship shall be entitled to the above Bounty, unless she carry out one man and one boy over and above the number now required by law.

That it be proposed to Parliament to grant four Premiums of £500 each—four of £400—four of £300—four of £200 and four of £100 for the encouragement of the Southern Whale Fishery, to be granted to such ships only as go and fish to the southward of seven degrees North Latitude.

1 May 1786. [Evidence.][3]

[Mr. Samuel Enderby and Son, Mr. Alexander Champion, and John St. Barbe in attendance.]

[1] B.T. 5/3, p. 283. The Commissioners of the Customs had reported against parliamentary aid or continued bounties for the whalers on 15 March 1786 (B.T. 6/93), but the Committee, though refusing a bounty on tonnage, recommended increased aid.

[2] The impending expiration of the 1782 statute relating to the long-established Greenland Whale Fishery had led to similar representations on behalf of a continuing bounty of 40 shllings in February 1786. The Commissioners of the Customs reported, however, that the trade was so flourishing that bounties were quite unnecessary; but the Committee, inserting a condition which would do a little to make the fishery more a source of naval power, were prepared to recommend a smaller bounty (26 Geo. III, cap. 41). It was further reduced in the years following 1792 when the Southern Whale Fishery was expanding on a substantial scale.

[3] B.T. 5/3, pp. 379–81.

Q. Does this account contain the number of ships fitted out on this fishery from the port of London only?

A. From the port of London only; there were some, but very few, from the out ports.

Q. Did many ships go on this trade before the war and during the war?

A. None before the war, several during the war, as appears by paper delivered.

Q. What is the usual tonnage of ships employed on this fishery?

A. Generally from 180 to 250 tons, there are two now upon the fishery of about 400 tons.

Q. What are the number of men employed in this fishery in proportion to the tonnage?

A. Nearly three men and a boy for every 50 ton, besides the master.

Q. Is it the wish of the trade that the old premiums should be repealed, and the new ones take place this year?

A. It is the general wish of the trade, that the old premiums should be repealed, and the new ones take place this year.

Q. Are any ships sailed in this year under the subsisting acts?

A. One only to our knowledge.

Q. Should you have any objection to this ship or any others that may have sailed since the 1st of January and before the 1st of this instant May, partaking of the bounties now intended to be granted?

A. We have no objection.

The gentlemen were desired to take notice that the ships that have not already sailed were to conform to the provisions of the Act intended to be proposed to Parliament.

Q. Should you have any objection to the ships employed on this fishery, and intending to pass Cape Horn, or the Cape of Good Hope, being furnished with a licence from the East India Company and giving security to the said Company, not to be engaged in any illicit trade affecting their exclusive right?

A. We have no sort of objection to taking out such a licence, and giving the security required.

3 May 1786. [Report.][1]

. . . It is evident from the facts and accounts before stated, that although the Portuguese and the Americans have been hitherto the most successful in this fishery, and carried it to the greatest extent, the subjects of Your Majesty, residing in Great Britain, have gradually been improving in it, and that since the peace, the number of ships employed in it, under the present encouragement, has annually increased.

The Committee cannot think it necessary therefore to subject the public to the payment of large bounties on the tonnage of vessels

[1] B.T. 5/3, pp. 464–9.

employed in this fishery, as prayed for by the memorialists, nor to a bounty upon the oil imported, which they have also desired, especially as a bounty, granted in this way, must necessarily be exposed to great frauds.

The Committee do not think it right however to leave this trade without future encouragement. It is of great importance in the present moment, when the American fishery is declining, and it is doubtful to what countries the people heretofore employed in it may resort, and whether Great Britain or any foreign country may get possession of it, that a proper effort should now be made to secure to this country the advantages of a fishery which was once so lucrative to the Americans; with this view the Committee after mature deliberation do agree humbly to recommend to Your Majesty the following plan:

That it be proposed to Parliament to repeal the premiums, at present subsisting under the Acts of 15th and 16th of Your Majesty's reign, so far as respects the whale fishery; with this proviso, that any ship which may have already been fitted out and sailed on this fishery since the first of January 1786, under the provisions of the beforementioned Acts of the 15th and 16th of Your Majesty, and shall have conformed to the regulations prescribed in the said Acts, shall be entitled to share in the premiums now proposed to be given, and that such ships as shall fit out and sail after the first day of May, shall be obliged to conform to the conditions hereinafter mentioned, and so conforming shall also be entitled to share in the said premiums.

That three sets of premiums, to the amount and in the proportions specified in the two before mentioned Acts, be granted to ships qualified according to law, owned by British subjects residing in some part of Your Majesty's European dominions, which shall be employed in the said fishery to the southward of seven degrees north latitude, such ships to be navigated either by Your Majesty's subjects, residing in some part of Your Majesty's European dominions, or by natives of America, who at the time of clearing out shall make oath that they have already established, or that it is their intention to establish, themselves and families in Great Britain, or some part of Your Majesty's European dominions; and that such persons, having so established themselves and carried on the fishery from thence during the space of five years successively, shall upon taking the oath of allegiance in any court of record, be entitled to all the privileges of natural born subjects; the ships employed in this fishery to be fitted and cleared out from some port in Great Britain or Ireland, or the Islands of Guernsey, Jersey or Man, after the first day of May in each year, and to return within the space of 14 months, that is, before the 1st day of July in the following year, to some port in Great Britain, with not less than 20 ton of oil taken in the course of the voyage, the said quantity not being more than one third of what is stated by the memorialists to be a reasonable produce for one voyage.

That in addition to the above three sets of premiums, there be granted also, under the conditions hereinafter mentioned, the following premiums for the encouragement of ships, owned and navigated, and fitted and cleared out in the manner above mentioned, and after the first day of May in each year, which shall arrive in some port of Great Britain with the greatest quantity of oil (not less than 20 ton) within 28 months and not less than 18 months from after the said 1st day of May. These last mentioned premiums to be as follows:—

	£
For the ship importing the largest quantity of oil of their own taking	700
For the next largest quantity	600
For the next	500
For the next	400
For the next	300

That the oil which shall entitle any ship or vessel to any of the before mentioned premiums, shall be taken by that ship, and made from any sort of whale, or other creature living in the sea; and in case such whales or other creatures living in the sea shall even be taken on this side the latitude of seven degrees north, the oil made and taken therefrom shall be accounted as part of that which entitles such ship to some one or other of the premiums before mentioned, provided it shall appear that such ship has actually sailed beyond and been *bonâ fide* employed in the fishery to the southward of the latitude of seven degrees north, and shall have been absent on such voyage during the periods before stated. . . .

[A penalty of £500 is to be imposed on masters including American or any foreign oil in their claims for a premium. For the further prevention of fraud a log-book is to be kept in which (*inter alia*) the time and location of each whale-killing is to be entered with the quantity of oil produced. This log book to be produced before the Collectors of Customs at the port of delivery.]

And that no bounty be allowed or paid for any ship claiming the same, unless such ship shall have on board an apprentice, indentured for the space of three years at least, for every fifty tons burthen of such ship, every such apprentice not exceeding the age of eighteen years, nor being under fourteen, at the time he shall be so indentured.

And the Committee are of opinion that it will be proper that the harpooners, line managers and boat steerers necessary for carrying on this fishery should be protected from being impressed, in like manner with those employed in the Greenland fishery.

And further, the Committee are of opinion that no ship should be entitled to receive more than one of the premiums hereinbefore proposed to be granted, within either of the periods before mentioned, though such ship or vessel should make two voyages within one of the said periods.

And as the persons concerned in the said trade have desired to be permitted to pass the Capes of Good Hope and Horn, for the purpose of carrying on their fishery in the seas beyond the said Capes, the

Committee are of opinion that it may tend to encourage the spirit of adventure, to promote navigation, and to render this fishery still more extensive and beneficial to this country, if, with the consent of those corporations who may now claim an exclusive right to navigate the seas before mentioned, the ships and vessels employed in this fishery might be permitted to pass the said Capes and to carry on their fishery in the seas beyond them, under proper limitations and restrictions, and it is with this view principally that the Committee have recommended the larger set of the premiums before mentioned.[1]

63

SOUTHERN WHALE FISHERY: MINUTE OF THE COMMITTEE FOR TRADE, 26 December 1797[2]

Read.—A Memorial of the merchant-adventurers in the Southern Whale-Fishery, stating that it is absolutely necessary that the vessels employed on the southern whale-fishery should put into some ports or islands in the Pacific Ocean for the purpose of refreshing their crews, which they are prevented from doing by the war between Great Britain and Spain; representing, at the same time, that they have strong reason to suppose that the spermaceti whale and seal fishery might be carried on to great advantage at Kerguelen's Land, in the Indian Ocean, off the coasts of New Holland, the New Hebrides, New Caledonia, New Zealand, the Philippine Islands, and Formosa, but that by the Act of Parliament of the 35th of His present Majesty, cap. 92, sec. 19, such vessels are restrained from proceeding further north than the Equator and further east than 51 degrees of east longitude, and consequently from carrying on the fishery at and near the places above mentioned, where they might procure the refreshments they stand in need of, and consequently escape the risk of capture; and therefore praying that the restriction above mentioned may be taken off, and that a Bill may be immediately brought

[1] On 5 May Jenkinson introduced a measure, which incorporated these recommendations, into the Commons. He claimed (justifiably) that the policy soon became 'wonderfully successful' (Add. MSS. 38,310, p. 9); and Enderby was not ungrateful for the expanding prosperity and paid tribute to him in 1795, calling the Southern Whale Fishery 'the child of your Lordship's policy' (Add. MSS. 38,230, pp. 313 ff.). The East India Company agreed to admit limited whaling in the Indian Ocean and South-West Pacific by an agreement of 1788 (see B.T. 5/5, pp. 53–55).

[2] B.T. 5/11, pp. 43–45. Printed in *Hist. Records of New Zealand*, vol. i, Wellington 1908, p. 216. Fur traders in Nootka Sound and whalers off Patagonia had come into conflict with the Spanish claims of monopoly of navigation and trade, but these had been settled by the Convention of October 1790. New opportunities were now waiting, and further extensions of the boundaries of the fishery were negotiated with the East India, South Sea, and Hudson's Bay Companies in 1791–3 to admit whaling in the eastern Pacific (33 Geo. III, cap. 58). See also B.T. 5/7, pp. 74–80. Spermaceti whales were said to be more abundant off the coasts of Australia and New Zealand than off South America.

into Parliament for that purpose, or that such relief may be given them as to the wisdom of Parliament shall seem fit.

Ordered—That a copy of the said memorial be transmitted to William Ramsay, Esquire, for the consideration of the Court of Directors of the United Company of Merchants of England trading to the East Indies, with a letter expressing the hope of the Lords of this Committee that the Court of Directors will not be averse to a compliance with the prayer of the memorialists for the benefit of the southern whale-fishery (which is become a very important branch of commerce), as far as they conceive may be done consistently with the security of their commercial rights; and desiring that the Court of Directors will report, with all convenient expedition, their opinion on the subject of the said memorial, suggesting, at the same time, in case of a compliance with the request of the memorialists, such regulations and restrictions as may be thought necessary for preventing the ships engaged in the southern whale-fishery from interfering with any of the essential rights to which the East India Company is entitled under its charter.[1]

64

SOUTHERN WHALE FISHERY: MINUTE OF THE COMMITTEE FOR TRADE, 26 May 1803[2]

Read a Memorial of the owners of ships employed in the Southern Whale Fishery praying for the reasons therein assigned[3] an extension of the present limits of their fishery by commencing at the longitude of 51 degrees east and extending the latitude from 15 degrees south to 10 degrees south upon the owners giving such further security to the East India Company as may be required.

Transmit a copy of the said Memorial to the Secretary of the Court of Directors of the East India Company with a letter requesting the sentiments of the said Court thereon; and acquainting him that their Lordships are strongly impressed with an opinion of the great importance of the Southern Whale Fishery to the navigation and commerce of this country and of the advantage which that Fishery would

[1] The East India Company agreed to permit an extension of the fishery into the Indian Ocean and off the coasts of New Holland, the New Hebrides, New Caledonia, and New Zealand, but were firmly opposed to any extension to the Philippines and Formosa. The Bill (38 Geo. III, cap. 57) was drafted accordingly.

[2] B.T. 5/14, pp. 66–67. Sir Joseph Banks was amongst those present on the Committee that day. On 7 June the acquiescence of the Company was reported (B.T. 5/14, p. 78), and a new Bill was drafted.

[3] Amongst the most effective arguments was one that the new colony of New South Wales would be supplied entirely by Americans who, knowing that British merchants could not trade within the limits of the E.I. Company's monopoly under risk of seizure, were freely sending cargoes there on their way to India. Enderby and Champion believed that the United States would monopolize N.S.W. trade, while Britain would be burdened by the expenses of government.

derive from the extension prayed for; and that it appears to their Lordships that such an extension, if guarded by reasonable restrictions and conditions to be agreed upon between the Company and the Memorialists, cannot prove injurious to the rights of the Company. Indeed by carrying the line of extension northwards to the 10th degree of south latitude, the limits of the Fishery will not be brought so near to the present possessions of the Company as the last limit of the 15th degree of south latitude was to the Dutch islands of which the Company was in possession when the last Act passed. If the proposed extension shall be granted, in addition to the advantage of a safer and shorter voyage home westward by the northern coast of New Holland, frequent opportunities will be given for thoroughly investigating the navigation of the Straits of Torres which in their Lordships' opinion may prove a matter of great national importance.

(*b*) *Wool*

65

NEW SOUTH WALES: MEMORIAL SUBMITTED BY CAPTAIN JOHN MACARTHUR TO THE COMMITTEE FOR TRADE, 4 May 1804[1]

[Great George Street, London.]

. . . Most respectfully states:

That some doubts have been expressed of the practicability of increasing the production of fine wool in New South Wales to the extent that has been described in the Memorials which have been presented to the Right Honourable the Lords Commissioners of His Majesty's Treasury, Your Lordships' Memorialist feels it encumbent upon him respectfully to endeavour to remove those doubts by a repetition of the principal facts contained in the representation he has already had the honour to make, and to accompany it with such further explanations and with a reference to such evidence as he humbly hopes may be considered conclusive.

In the year 1797 your Memorialist procured from the Cape of Good Hope three rams and five ewes of the Spanish breed of sheep, and being persuaded that these animals might be of great consequence to the colony in New South Wales he paid very particular attention to

[1] B.T. 1/24. Printed in S. M. Onslow, *Early Records of the Macarthurs of Camden*, Sydney 1914, p. 78. *John Macarthur* had sailed for Port Jackson in 1789 as a Lieutenant of the N.S.W. Corps. By 1795 he had introduced the plough on his land and was experimenting with the breeding of sheep. He was involved in quarrels with Governors Hunter, King, Bligh, and Macquarie, and spent many years away from his flocks in England answering charges and justifying his actions. Meanwhile, under Mrs. Macarthur his estates became very prosperous. He returned to N.S.W. in 1817 the richest man in the colony.

preserve the breed pure. He had soon the satisfaction to see them increase and the fleeces of their offspring improve in fineness and augment in weight.

Having ascertained those facts and being desirous to extend the growth of fine wool as much as possible he caused all the mixed bred ewes of which his flocks were composed to be crossed with rams of the Spanish kind. The lambs produced from this cross were clothed with wool infinitely superior to that of their mothers, but when the cross was repeated again the improvement became greater than his most sanguine expectations had induced him to calculate upon—in so much that he is of opinion no distinction will be perceptible in four crosses betwixt the pure and the mixed breed.

When your Lordships' Memorialist left Port Jackson in 1801 his flocks consisted of more than two thousand sheep, the whole of which had been bred from about fifty ewes in little more than seven years—and by the returns that he has received of 1802 his flocks were increased to three thousand. He has not yet received any accounts of the year 1803, but he concludes there must then have been about four thousand, beyond which he has no expectation they have increased as the whole of the lands contiguous to his farms have since his departure from the colony been appropriated for cultivation.

Your Lordships' Memorialist brought with him to England as samples fleeces shorn from the sheep imported from the Cape of Good Hope; fleeces shorn from their progeny bred in New South Wales; and fleeces shorn from sheep of the mixed breed, whose dams bore nothing but hair or coarse wool. When these samples were shown to the most eminent manufacturers and merchants concerned in the woollen trade, they all concurred in opinion that the worst specimens of the mixed breed would be valuable here, and that the specimens of the finest kind bred in New South Wales were much superior to the wool of the original sheep imported from the Cape of Good Hope, and that they were equal to the very best we ever receive from Spain. Indeed some of the manufacturers declared the wool to be superior to Spanish wool in many respects, and that if they could procure a sufficient supply it would enable them to surpass all other countries in the manufacture of the best woollen cloths. But of these opinions perhaps it would be superfluous to say more, as the numerous Memorials presented to the Lords of the Treasury from the manufacturers and merchants must contain more decisive evidence than any other testimony that can be offered upon the subject.

Your Lordships' Memorialist is entirely convinced from the number of sheep that have already been bred in New South Wales, and from the improvement which he has witnessed in the quality of the wool, that millions of sheep may be raised in that country, and that in a few years the present stock by proper attention may be so increased as to produce a greater quantity of fine wool than we are now

obliged to purchase from Spain—and which he has ascertained by the proposals of some eminent ship owners, may be brought hither from New South Wales at no greater freight than is paid for the freight of cotton wool from the East Indies—namely three pence per pound in time of war and three halfpence in peace. . . .

With such a prospect of becoming useful to his country, as the foregoing facts afford, your Lordships' Memorialist has long entertained an ardent desire to return to New South Wales and to devote his whole attention to the increase and improvement of his flocks.—And having understood that His Majesty's Ministers were more disposed to approve of the undertaking being carried on by a company than by an individual he had the honour to submit a plan for the formation of the company to the Right Honourable the Lords of the Treasury.

Your Lordships' Memorialist respectfully hopes that the statement he has now given and the evidence he has referred to in corroboration of it will remove every doubt and he persuades himself that under no possible circumstance an attempt to supply this country with fine wool, the production of its own colony, can appear to your Lordships impolitic or in any degree hazardous. For as your Memorialist requires no pecuniary aid, the hazard would be all his own, and even for a moment supposing him to be mistaken (which however he cannot in justice to himself admit to be possible, founded as his opinions have been upon so many years successful experience) yet the infant settlement of New South Wales could not but derive great advantage and security from such an abundant supply of animal food as must indisputably be raised.

Your Memorialist will no longer trespass upon your Lordships' attention than to say that if your Lordships shall be pleased to sanction him in the undertaking on behalf of a company, he will submit to your Lordships' consideration the names of the many respectable persons who have offered their assistance and declared their willingness to form a company.

But should your Lordships more approve making the experiment on a small scale upon the individual account of your Memorialist, he will most cheerfully commence it with an allotment of ten thousand acres of land and permission to select thirty convicts for shepherds.

Your Lordships' Memorialist would choose the land ten miles from any of the settlements where there is cultivation, and he would engage in return for the indulgence to supply the public with all the sheep it might be proper to kill, at a stipulated price, by which means your Lordships' Memorialist humbly presumes the expenses of Government in that colony would be very much diminished in a few years. . . .

66

NEW SOUTH WALES: MINUTE OF THE COMMITTEE FOR TRADE, 14 July 1804[1]

[It is directed that Macarthur's Memorial, together with his evidence and that of ex-Governor Hunter and John Prinsep on the great possibilities of a trade in wool with New South Wales, and the opinion of the woollen manufacturers that 'wool of a very fine quality suited to the manufacture of fine cloth' may be produced there and 'brought to this country at a price which the manufacturers can afford to give for that material', are to be sent to Lord Camden.]

... That their Lordships also conceive that, without more knowledge than they now possess of the nature and state of the colony and without full communication with the Government of the settlement, inconvenience might arise from recommending an unconditional grant of lands to Mr. MacArthur or to a Joint Company or to any individual, as such grant might retard or prevent the other inhabitants of New South Wales from turning their attention to the growth and cultivation of fine wool, or perhaps in other respects counteract the improvement of the Colony. ...

[The Committee consider that Macarthur's plan should be referred to the Governor for his comments and that the Governor should be instructed to encourage the growing of fine wool in New South Wales by what means he considers most suitable.]

That the Lords of the Committee think it right to observe that a conditional grant of lands of a reasonable extent may be perhaps with safety granted to Mr. MacArthur for the pasturage of sheep only, or to other persons, provided a power be reserved in such a grant to resume the same at any future period on giving other land farther distant from the cultivated land of the colony (with reasonable indemnification for expenses incurred in fencing &c.) and that such conditional grant would not cramp the cultivation of the Colony or be attended with bad effects in any manner at present apparent to the Lords of this Committee. ...

[The Governor should be instructed to supply the convicts with mutton from sheep of fine fleeces instead of providing salted provisions.]

That the information obtained from the fleeces brought from the settlement in question and from the description given of the climate of the colony, the Lords of the Committee are led to imagine and entertain hopes that wool of a fine quality may be produced in this Colony and that as wool of such a fine quality is much wanted and desired by the manufacturers of cloth in England, it being mostly

[1] B.T. 5/14, pp. 355–9. John Hunter had been Governor of N.S.W. between 1795 and 1800. J. Prinsep was a London merchant who had on several occasions tried to interest the Committee in opening a regular trade with Port Jackson.

drawn at this time from a country[1] influenced, if not dependent on, France, their Lordships entertain no doubt that it is well deserving the attention of His Majesty's Government to encourage the produce of fine wool in the colony of New South Wales.[2]

67

REPORT OF THE COMMISSIONER OF INQUIRY ON THE STATE OF AGRICULTURE AND TRADE IN NEW SOUTH WALES, 1823[3]

. . . From the access that was afforded by the road over the Blue Mountains to the country around Bathurst, the stock owners derived considerable advantage from the pasturage of those tracts in the year 1816, after two seasons of continued drought. Since that period, permission has been given to all persons that applied for leave, to drive their sheep and cattle to Bathurst for the purpose of temporary occupation and pasturage. A large tract of land on the south side of the river has been retained for the use of the Government herds; and, with the exception of one valley in which Mr. Fitzgerald has been allowed to fix a cattle station, the herds and flocks of the settlers are on the north side, and as far as the line of the Campbell River.

Mr. Cox occupies a considerable tract of land immediately opposite the station at which the Government buildings have been placed. No grant had been executed of this land, but I understood from Mr. Oxley that it was intended to be conferred on Mr. Cox. This gentleman has here erected farm buildings, and made inclosures, in which he is making experiments with the artificial grasses. It is here also that he has very considerable flocks of sheep, amounting to 5,000, and herds of cattle, which, from the late accession of other occupants, have been obliged to resort to new and more distant tracts. Twenty-four flocks, of which ten belonged to Mr. Cox, were distributed over the Bathurst Plains and adjoining vallies in the month of November 1819, and the whole number of sheep then amounted to nearly 11,000.

The remaining proprietors had availed themselves of the temporary permissions given by Governor Macquarie, and had placed their sheep and cattle under the care of their convict servants, who were lodged in

[1] Spain supplied almost four-fifths of the wool imported into Britain until the decline after 1810.

[2] From the classified returns for 1807 (Customs 4/4) it appears that 105,079 lb. were being imported into Britain, mainly from sheep of Spanish stock in Europe. In 1810, 83 bales came from Australia, while some 2,221 bales were imported from Germany and 19,748 bales from Spain.

[3] *Parl. Papers*, 1823 (136), vol. x, pp. 620–4. *John Thomas Bigge* had been Chief Justice of Trinidad. He was appointed Commissioner to inquire into the state of N.S.W. in 1818, with wide powers which brought him into conflict with Governor Macquarie. In 1822 he was sent on the Commission of Eastern Inquiry with Major W. M. Colebrooke to the Cape of Good Hope, Mauritius, and Ceylon.

huts built of turf and wood, in the central part of the tract upon which the sheep and cattle grazed. . . .

In consequence of the increase in the number of sheep and cattle in the county of Cumberland, and of the objection made by the settlers to transfer their stock to the western side of the Blue Mountains for the purpose of temporary pasturage, the growth and reproduction of the natural grasses in the former district has been much checked. Your Lordship is aware that, with the exception of the lands held by Messrs. McArthur and Davidson on the southern side of the Nepean, the remaining part of the tract of valuable land called the Cow Pastures, has been appropriated to the use of the Government herds and of the wild cattle. . . .

[An account of the efforts and success of John Macarthur in introducing merino sheep is given.]

This improvement has already been perceptible in the flocks of a few individuals; and the high prices for which the finest fleeces of Mr. MacArthur's flock have been sold in the London market, will no doubt direct the attention of other proprietors of land and stock, to the adoption of the same means by which he has succeeded in obtaining such a valuable article of export. . . .

I have already had occasion to allude to the only obstacles that appeared to me to prevent the rapid augmentation of the growth of fine wool in the colony of New South Wales; they consisted of the difficulty and expense of transporting the wool from the interior to the coast; the prospective augmentation of duty that existed, until an Act that was passed in the last session of Parliament suspended the payment of any higher duty than one penny per pound on all wool that should be imported into England, from New South Wales or Van Diemen's Land, for the next ten years; and the difficulty that had been experienced in obtaining the labour of convicts accustomed to agricultural occupations.

The measures that I have had the honour to recommend for the provisional occupation of extensive tracts of grazing land in the country to the west and north of Bathurst, appear to me to provide against the dangers that might be apprehended from a too general dispersion of the convicts; and it will then only remain for the local Government to improve the present communication between Bathurst and the sea-coast, by the road over the Blue Mountains. The ascent of Mount York is at present a difficult one for loaded carts; and it is very probable that, unless another and more easy route should be discovered, the use of mules in passing the Blue Mountains will be found preferable to that of carts and waggons. I should, however, recommend that, even in the present state of the road, a station for the reception of stock and cattle that are driven from Bathurst to the coast should be established at the foot of Mount York; and that a military guard, consisting of a sergeant and eight men, should

likewise be placed there, for the purpose of watching and giving notice of the number of cattle and sheep that pass the mountains. A stock yard might also be placed at this station for the reception of cattle, and in this manner it would be found practicable to combine the advantages of police with those of temporary refreshment to the sheep and grazing stock, that is very requisite for them after passing over the sterile ridges of the Blue Mountains. . . .

It is in removing impediments of this kind, and in the distribution of agricultural labourers, that it appears to me that the local Government can afford the most beneficial assistance to the first efforts of individuals in agricultural enterprises, leaving to them at a future period the task of carrying on the improvements of the communications between the remoter positions and the ports or depôts to which the produce may be carried.

A proposal was submitted to Governor Macquarie in the year 1820, for the establishment of a joint stock company in New South Wales for the growth and production of fine wool. In aid of this establishment pecuniary assistance was requested by advances from the police fund; the assignment of agricultural labourers as they arrived from England; an unlimited range for flocks of sheep in the interior, not approaching nearer to the settled estates than five miles; and an importation of sheep of the pure Merino breed at the expense of Government, the cost of which was to be repaid at a future period, and in the meantime to be secured upon the shares of the subscribers and the flocks of sheep as they might be produced. . . .

Upon the expediency of promoting in the colony of New South Wales the growth of fine wool, and creating a valuable export from thence to Great Britain, no doubt can be entertained, as it appears to be the principal, if not the only source of productive industry within the colony, from which the settlers can derive the means of repaying the advances made to them from the mother country, or supplying their own demands for articles of foreign manufacture.[1] . . .

(*c*) *Cotton*

68

MINUTE OF THE COMMITTEE FOR TRADE

8 October 1787[2]

Read letter from Mr. William Frodsham, one of the delegates for the manufacturers of Manchester, dated the 20th September,

[1] In 1834 New South Wales and Van Diemen's Land together accounted for 3,557,538 lb. imported into Britain out of a total of 43,171,769 lb., about half of which came from Germany (Customs 5/23). The special softness of the wool enabled it to fetch as much as 3*s*. 6*d*. to 4*s*. per lb. in the middle years of the 1820's.

[2] B.T. 5/4, pp. 362–3. An illustration of the world-wide search for cotton to

informing their Lordships that in obedience to their request he had laid the specimen of Persian cotton which was transmitted to him by their Lordships' direction on the 1st ultimo before the principal persons who are supposed to understand best the quality and specific value of raw cotton, and that the general opinion upon the quality is that of being extremely fine, and if it could be planted in any of our own colonies so as to retain its native quality it would certainly be a valuable acquisition to the planters as well as to the cotton manufacturers, believing at an average price it would fetch in this market 3*s.* per pound or upwards[1] and returning thanks in the name of the manufacturers of Manchester for the very particular attention their Lordships have shown on this and every other occasion to promote and encourage their cotton manufactories.

Ordered that a letter be written to Sir Joseph Banks, bart., President of the Royal Society, transmitting to him a copy of the above mentioned letter and desiring that he would communicate his opinion whether in consequence of the information therein given this Persian cotton can be cultivated to advantage in our West India Islands and that he would suggest any steps which the Committee can properly take for encouraging the growth of it.[2]

69

DOMINICA: GOVERNOR SIR JOHN ORDE TO LORD SYDNEY, 30 March 1788[3]

Dominica.

. . . It would also give me great pleasure to receive His Majesty's directions, for which I have been anxiously waiting, respecting the

supply the new machines, a problem which occupied a large part of the Committee's time in this period. Sir Joseph Banks had submitted a specimen of Persian cotton on 29 August which was sent to Frodsham for a report. In November the Committee were delighted to hear from Banks that the specimen had actually been grown from Persian seed in Barbados by a Mr. Millington.

[1] Representatives of the Manchester cotton manufacturers on 26 February had stated in evidence that prices varied from 13*d.* a pound for cotton from Smyrna to 36*d.* for that from Surat—West India cotton fetching prices from 14*d.* to 20*d.*

[2] Banks was examined by the Committee on 15 December and brought with him Langford Millington who had grown the specimen cotton in Barbados on half an acre of land. Millington offered 18 ounces of picked, and half a pound of unpicked, cotton for the Manchester manufacturers to experiment with, and the Committee, on forwarding the samples, asked the manufacturers what price they were prepared to pay for the encouragement of further cultivation (ibid., pp. 409 ff.). Seeds were sent to West India governors by order of the Committee on 31 October 1788 (B.T. 5/5, p. 156).

[3] C.O. 71/14. Sir John Orde had been Governor of Dominica since 1783. In March and April 1786 Sydney had instructed Orde to do all he could to encourage the cultivation of cotton in Dominica. The Governor considered himself powerless to grant lands for that purpose and required further instructions. A proclamation of September 1786, which provided for grants of 30–60 acres for cotton growing, does not seem to have been approved by Sydney.

land offered by my proclamation to be granted *gratis* to proper persons for the cultivation of cotton and provisions. Many applications (as I had the honour before to mention to your Lordship) had been made for lands by qualified individuals, and of course some expense incurred by them. Many lands were by the Council and myself promised, and grants actually made out, when I received your Lordship's letter signifying that no approbation of the plan could be given until the conditions were known, and desiring that they might be immediately transmitted.

These grants were in consequence withheld (although I conceived at that time and do conceive still that the faith of Government is pledged for their being given in the end) until it should be known whether any additional conditions should be annexed. They remain at present in the same situation by advice of Council and so shall continue until I may receive your Lordship's answer to this, when if none comes, I will again resort to that Board for its opinion.

The subject of the Loyalists' provisions, money etc. etc. remaining here I have had the honour of mentioning several times to your Lordship and the Lords Commissioners of the Treasury. I must therefore beg pardon for mentioning it again, but should it not be attended with material inconvenience, or too much break in upon your Lordship's time, which of course has lately been taken up by much more material matters, I should be greatly obliged by having decided directions how to dispose of them. . . .

70

SECOND REPORT OF THE AFRICAN INSTITUTION, 1808[1]

. . . In the consideration of the various articles of exportable produce which may be cultivated with advantage in Africa, the attention of the Committee has been particularly drawn to COTTON. With the mode of raising the cotton tree the natives of the Western Coast of Africa are almost universally acquainted, although the particular species of cotton grown there (and from which they manufacture cloth of an excellent fabric) is so unsuitable to the English market, that the price which it would obtain would not repay the expense of raising it and conveying it to this country. As the natives of Africa, however, are already familiarized to the culture of cotton; as it requires only six or seven months from the time of sowing the seed to bring it to maturity; and as the process of preparing it for sale is short and simple; it appeared to the Committee to be a matter of great importance to introduce among them the seed of a superior

[1] *Second Report of the Committee of the African Institution*, Lond. 1808, pp. 7–14.

species of this plant. They accordingly applied to Mr. Alderman Shaw and Mr. Alderman Prinsep, to use their good offices in procuring for them, the former from Georgia, the latter from the Brazils, a quantity of the best kinds of cotton seed; and from both these gentlemen they have received the most satisfactory promises of assistance. Subsequently to this application, a cargo of cotton, of a very excellent quality, which had not been freed from the seed, arrived in the River Thames. Through the interference of Messrs. Hardcastle and Reyner, two zealous friends to the improvement of Africa, the purchaser of this cotton has agreed that the seed, which is found to be in a state of perfect preservation, shall be wholly at the disposal of the Committee. A large quantity of it therefore, put up in small packages so as to admit of its easy distribution, will be ready for transmission by the first conveyance.

By means of the same gentlemen who have favoured the Institution in this instance, a plentiful supply of seed of the best kind of cotton, though not in an equal state of preservation with that just mentioned, had been procured from a large cotton manufacturer at Manchester; and an opportunity has been taken of sending a part of it to Sierra Leone, by a vessel which left the river about a fortnight ago.

The Committee are aware that it may be objected to this attempt to extend the cultivation of cotton, that the supply of that article is already equal to the demand; and that therefore the measures pursued by the Committee are impolitic. But they would observe in reply to this objection, that cotton is an article the growth of which in Africa will occasion less of competition with our own colonies than almost any other article of tropical produce which could be named; and that it is important to be preparing sources from which a supply of cotton may be drawn, should circumstances arise to interrupt our commercial relations with America, or with the other places which now furnish it.[1] But independently of these considerations it may be presumed, that in proportion as the natives of Africa supply us with the raw material, they will be capable of paying for a larger quantity of the manufactured article. . . .

[The Committee go farther and enumerate gold, ivory, timber, gum senegal, palm oil, rice, many kinds of tropical fruits, 'cocoa nuts', salt, cola, silk, and tobacco as products which, if encouraged, might become the staples of a new 'legitimate' trade with Africa.]

[1] Imports from the British West Indies had risen from under 7 m. lb. in 1784 to over 12 m. lb. in 1791: in 1803 it had fallen back to 7 m. lb., but again rose to over 17 m. lb. in 1806. After 1812 there was, however, a steady decline. Africa did not make up the deficiency. In 1834 cotton imported from the whole of British Africa amounted only to some 44,000 lb. (with almost 40,000 lb. from the Cape), while the West India colonies were still supplying over 2½ m. lb. Some 33 m. lb. of cotton was coming from British possessions in the East, while over 120 m. lb. was then imported from foreign countries—mainly the United States: and about 500,000 lb. by way of the West India free ports (Customs 5/23).

IV
EMIGRATION AND SETTLEMENT
A. EMIGRATION POLICY

1
QUEBEC: GEORGE POWNALL TO JOHN POWNALL, 11 November 1784[1]

[Quebec.]

. . . The Loyalist and disbanded soldiers who are chiefly settled upon the Crown lands lately bought from the Indians on the north side of the Lake Ontario, together with some families at Sorel and in the vicinage of Montreal may amount to between five and six thousand souls including a party of Butler's Rangers who are settled at Niagara; they are settled in fifteen townships which I understand extend from about fifty miles above Montreal to the Bay of Quintée included. I am told that these people are very well satisfied and are now most of them under cover; if they possess a spirit of industry and perseverance they may possibly thrive there, the soil is by all accounts very rich and fit for the produce of every grain; the woods produce fine white oak and other timber, fit for the purpose of the West India market; and the seasons are milder and the climate better than in this lower part of the province; but they still have difficulties to encounter, one of which is from their being at the mercy of the savages whenever these people may take it into their heads to quarrel with them. . . . Another very great disadvantage these people will meet with is from their situation, which places them so far from any market for their produce, and the rapids which they have to pass in order to get down the river are both critical and dangerous until well known. I trust however that these people will succeed from the very flattering accounts I hear of them: the only doubt with me is, whether from the very great partiality they still by all accounts entertain for their old country, if the colonists see the policy of regaining these people and hold out the most trifling encouragement for their return, whether they would not take the bait. . . .

Whether these people would not have been more useful to Great Britain, to the province and to themselves, had they been settled below Quebec, is a question seems to me to admit of some doubt: or if they had been settled more in the centre of the province, whether

[1] C.O. 42/16, ff. 77–78. *George Pownall*, son of John Pownall, had been Clerk and Registrar of the Legislative Council of Quebec since 1775.

their example of industry and enterprise would not have been more useful to the province and at the same time have sooner extended amongst the old inhabitants.[1] . . .

2

QUEBEC: HUGH FINLAY TO EVAN NEPEAN

4 April 1788[2]

DEAR SIR, Quebec.

Many are the applications to the Governor General, from people residing in the United States for lands in this province, wishing to see themselves once more under a free government, where the laws protect the person and property of the subject.

Opinions are divided here with regard to the policy of admitting these men as settlers among us, lest they import and diffuse principles adverse to the British constitution. I have always been of opinion that a half of the people of the colonies, now the States, have, some from prejudices early imbibed and others from a thorough investigation of the nature of the government, been sincerely attached to the British interest during the late rebellion, though they did not take arms, and that they are still attached to it. Many who were but lukewarm in our cause, and some who were opposers of the King's authority are now convinced of their folly and live to repent at leisure. . . . If the King's ministers will receive the repentant sinners of the revolted colonies, I conceive we might have an addition of twenty or thirty thousand souls to the number of His Majesty's subjects in this province, in twelve months. I firmly believe that a majority of the four Eastern States sincerely desire to return to their allegiance. . . .

3

UPPER CANADA: LIEUT.-GOVERNOR J. G. SIMCOE TO HENRY DUNDAS

2 June 1791[3]

. . . The form of government which has been already bestowed on Upper Canada may be considered as the foundation of this important

[1] In evidence before the Committee for Trade on 9 February 1788 Adam Lymburner declared that some 10,000 Loyalists were settled above Montreal alone, were growing 'more corn than was necessary for their own consumption', and were proving a good example to the French Canadians for improved farming (B.T. 5/5, pp. 38–39).

[2] [C.O. 42/87, f. 631]: quoted from H. A. Innis and A. R. M. Lower, *Select Documents in Canadian Economic History*, Toronto 1929, p. 13. *Hugh Finlay* had been a member of the Governor's Council since 1765 and deputy Postmaster-General of British North America since 1774.

[3] C.O. 42/316, pp. 323–7. The dispatch as printed in the *Simcoe Papers* (vol. i, p. 27) is dated 30 June.

fabric.[1] There are thousands of the inhabitants of the United States whose affections are centred in the British Government and the British name; who are *positively* enemies of Congress and to the late divulsion of the Empire. Many of their connections have already taken refuge in Canada and it will be true wisdom to invite and facilitate the emigrations of this description of people into that country.

It being obvious that from such emigrants, their descendants (and in some measure all classes of people) will adopt that habitual attachment to the British nation which is a great bond of Union between the subjects of any state and a powerful barrier against any attempts which may be made to overthrow or undermine the existing form of government, nor let it be supposed that this aversion from Congress, so advantageous to the new colony, if rightly improved, has or is near dying away; the contest of the natives of Great Britain with the subjects of the American States was decided by arms and terminated by treaty. That of the American with the American still exists under all the injurious remembrances of open or covert vexation under the taunts of triumph, taxes, and family confiscations. Other classes of Americans will emigrate to better their fortunes and whose indifference to any form of government may be converted into zealous attachment to that under which they shall live, whenever they shall feel the advantages of its beneficence and wisdom, of the equality of its laws and its protection from the probability of foreign invasion. Emigrations of hardy, industrious and virtuous men may be reasonably expected from the northern parts of Great Britain.

To settle these various descriptions of men so as to promote the cultivation of the land, to give power and energy to civilization, efficacy to just government, and to combine a force whose appearance may prevent the very meditation of hostility, it is *indispensably necessary* that a *capital* should be established in some central situation and that as soon as possible, almost instantaneously, a great body of emigrants should be collected in its vicinity so as to become the very transcript and image of the British people and to transfuse their manners, principles, and attachments through the whole colony.

2. I conceive the peninsula surrounded by the waters of the Great Lakes (a kind of lesser continent) to be the most favourable situation in nature for a British colony. It is the country in which Champlain, the founder of Canada, intended to have made great establishments, but which has been since neglected except by the casual erection of a few posts. There are but a very few Indians who inhabit within it, the greater part of the soil has been purchased and the whole ought to

[1] Simcoe was emphasizing, as was his wont, the importance of a detailed assimilation to the British constitution as a bulwark against 'the spirit of democratic subversion' from the United States and as a dynamic for the anglicization of the interior (see Doughty and McArthur, op. cit., pp. 200 ff.). Simcoe's enthusiasm for peopling the Canadian wilderness was not shared by the British Government.

be before it will become of value, as the Indians will not want for suggestions to enhance its price. I consider this country to be of immense value, whether it be regarded in respect to its *immediate advantages*, the future *prospect* of *advantage*, or the probable grounds for supposing that it will remain the most *permanent foreign possession* of Great Britain. . . .

[To effect these purposes Simcoe suggests that a special corps of troops should be raised, consisting of four companies, each of which would be about 100 strong. Such force could be trained to operate naval vessels on the Great Lakes, and would preserve the security of the infant settlement against American expansion and possible attacks by the Indian tribes.]

4

LOWER CANADA: MINUTE OF THE COMMITTEE FOR TRADE ON IRISH EMIGRATION

11 July 1792[1]

Read letter from Mr. King, transmitting by direction of Mr. Secretary Dundas, extract of a letter from Alured Clarke Esq. Lieut. Governor of the Province of Lower Canada, dated 28th April last, enclosing a Memorial of William Porter on the subject of turning the course of emigration from Ireland to Philadelphia (stated to have amounted annually to 1,500 persons) and to induce such emigrants to settle in the Province of Lower Canada, with a report of the Land Committee to Lieutenant Governor Clarke upon the said Memorial.

Ordered, that a letter be written to Mr. King in answer, observing to him that, in addition to the number above-mentioned (which are said annually to emigrate to Philadelphia) it appears by a letter of Mr. Consul Miller, dated Charlestown the 28th December 1791, and transmitted to him by order of this Committee in a letter dated the 13th of March last, that near 800 persons arrived at the single Port of Charlestown from Larn and Londonderry in the course of last year; and stating that letters from Mr. Consul Bond afford further evidence of the great numbers which annually emigrate to America from His Majesty's European Dominions; and desiring him to acquaint Mr. Secretary Dundas that this Committee, alarmed at the numbers which appear thus to emigrate, are unwilling to recommend the measures suggested in the Papers received from Lieut. Governor Clarke, as they might have the appearance of encouraging still further emigration, though to the British colonies in preference to the countries belonging to the United States; yet that their Lordships are of opinion that it may be advisable to transmit copies of the above-mentioned Papers to the Lord Lieutenant of Ireland for the information of the Government of that Kingdom, so that they may be

[1] B.T. 5/8, pp. 102–4.

apprized of the facts therein stated and be induced thereby to take measures for checking the emigration from Ireland generally, and, if this cannot be effected, to consider whether it may not be prudent and practicable, either in the way suggested in the Papers transmitted from Canada, or in some other manner to turn the course of it for the benefit of the British colonies.

5

LOWER CANADA: LORD GRENVILLE TO LIEUT.-GOVERNOR SIR ALURED CLARKE, 8 November 1792[1]

. . . Upon examination of the enclosures contained in your letter No. 42 I am clearly of opinion that the plan for the allocation of the lands to be reserved for the Crown and the Clergy, as stated in the report of the Surveyor General, adopted by the Land Committee, is contrary to the tenor and intent of the late Act, and to your Instructions grounded thereon. Such an allotment as is there proposed for those reserves (especially in townships bordering on the water) would be highly unfavourable to the Crown, and the Clergy, and would place the shares so to be reserved and allotted in a situation of less relative benefit than the lands of equal extent granted to individuals. Whereas the Act provides 'that they shall be as nearly as the circumstances and the nature of the case will admit of the like quality as the lands in respect of which the same are so allotted and appropriated, and shall be as nearly as the same can be estimated at the time of making such grant equal in value to the seventh part of the lands so granted', I apprehend that such future increase of value as may be in some degree proportionate to the increasing value of the lots granted to individuals can no otherwise be effectually provided for except by their being as much as possible contiguous to and interspersed with all the different allotments of individual property.

The reasons stated by the Committee for adopting a different system are in some respects inconsistent with the spirit and intention of the Parliamentary provision.

With respect to what is said of the expense of separate allotments in respect of each grant, this expense would certainly be considerable if the Surveyor was obliged in the several townships actually to survey and mark out each lot and each reservation of two seventh parts in respect thereof, as supposed by the above report. But there appears no necessity for deviating on this occasion from what is understood to be the practice now with respect to private lots, and if the geometrical situation and extent of the reserve is ascertained on the map

[1] C.O. 43/10. Printed in Innis and Lower, op. cit., p. 69. *Sir Alured Clarke*, who had been Governor of Jamaica from 1782 to 1790, was appointed Lieut.-Governor of Lower Canada in 1791 and acted as Lord Dorchester's deputy in his absence.

in the same manner as those of the grant, in respect whereof it is made, the grantee knowing both the quantum and situation of such reservation, as well as of his grant encloses the residue at his own risk and expense, as at present, but with as much certainty as if there was no reservation at all. The size of the lots may be determined with this particular view—each containing two seventh parts (the amount of the reservation) more than it otherwise would.

The question then to be determined would be in what part of every lot the reservation should be made? Whether according to one uniform system, by adopting in all cases the rule of drawing the boundaries of the reserve by parallelograms of which the lines which run from north to south shall be the longest, or by any other similar fixed rule, or by occasional variations in this respect, guided however by an uniform principle operating according to known differences of circumstance and situation.

The decision of this question must at least in the first instance be left for local consideration, but I have the King's commands to instruct you not to consent to any system even provisionally, which does not carefully keep in view the general idea of rendering the reserves as beneficial as was intended by the Act.

And particularly you are expressly enjoined to take care that in such townships as border upon the water, the reserved lands shall be so situated as to enjoy their full proportion of that advantage according to the relative quantities of the private grants, and the reserves as established by the Act. . . .

6

UPPER CANADA: HENRY DUNDAS TO LIEUT.-GOVERNOR SIMCOE, 12 July 1792[1]

. . . With respect to the great emigrations which may take place, either from the American States or elsewhere, I am of opinion that in the very infancy of the province under your government such emigrations would not be productive of all the good consequences which your mind on the first impression may suggest to you. Population is often the effect, but never I believe was or will be the cause, of the prosperity of any country. It is not (taken exclusively) found to be the true measure either of the strength, the riches or the happiness of a country. I am well aware that what is true and applies in many instances may not apply to a country of the extent of Upper Canada; but an ingrafted population (if I may so call it) to a great extent, and outrunning (as it must do) all those regulations, laws, usages and customs, which grow up and go hand in hand with a progressive and regular population, must I conceive in all cases be attended with a

[1] C.O. 43/10.

want of that regularity and stability which always, but particularly in colonial governments, require. I have said this much, not in order to check the emigrations which may take place from the American States into Upper Canada, but because it appears to me from what is stated in your letter that there is every appearance of settlers coming from thence in sufficient numbers, and of their own accord, without going out of your way to entice or allure them. In short, my opinion is that if care is taken to render the situation of settlers under your government comfortable and happy, the fame of their being so will naturally spread itself, and produce sufficiency of emigration from other states. But nothing could be more justly offensive to other nations especially neighbouring states, than to make the emigration of their subjects a professed and avowed object of our Government. Any artificial steps taken to effectuate that purpose are not only offensive, but must be attended with considerable expense. Add to this that if such a plan was systematically adopted, it would produce retaliation, and I doubt in the present infant state of our province of Upper Canada, whether we should be ultimate gainers in such a contest.

Proper steps will be taken to put a stop to emigrations from hence, but as that cannot be entirely effected, it is certainly to be wished that such as quit this country may be induced to become settlers in His Majesty's colonies abroad. With respect to a table of fees, I have no doubt but that with the assistance of the present council you will find yourself enabled to form such a one as may with propriety be enforced for the present, subject to any corrections or amendments which His Majesty may think proper to make on your transmitting the same to me for His information. . . .

7

CHARLES HOPE TO THE DUKE OF PORTLAND, 2 June 1801[1]

My Lord, Edinburgh.

By several letters lately received by the Board of Customs here, and by them transmitted to me, it appears that a very extensive emigration is taking place at present from various ports of this country to America, both to the British colonies of Canada and Nova Scotia, and still more to the United States. On receiving this intelligence, and knowing well not only the hardships which these poor people often suffer on the passage, but also the miserable disappointment which they generally meet with after their arrival, and considering also the probability that many of these people might be artificers and seafaring people, I

[1] H.O. 102/18. *Charles Hope* became Lord Advocate of Scotland in Addington's administration. He had been for some years keenly interested in emigration problems. See K. Walpole, 'The Humanitarian Movement . . . to remedy Abuses in Emigrant Vessels', *Trans. R.H.S.*, vol. xiv, Lond. 1931.

judged it to be my duty to take precautions which would at least remedy some of the evils attending this delusion.

I therefore directed the Board of Customs to issue orders to their port officers not to clear out a vessel carrying emigrants, till they are furnished with a list and description of the intended emigrants, and till they are satisfied that a sufficient quantity of water and provisions is laid in according to the number of people and probable duration of the voyage. This has been generally complied with, but some merchants of Greenock have refused to give any satisfaction on the above points, and threaten, if the vessels are not cleared out, to abandon vessel and cargo to the Crown. I wish therefore to have your Grace's directions, whether any of these precautions should be enforced or not. . . .

8

REPORT OF THE HIGHLAND SOCIETY OF SCOTLAND, 1803[1]

Emigration

The most important of the Society's proceedings, during the period comprehended in this account, were those which it deemed necessary to take respecting *emigration* from the Highlands and Islands, and other parts of the country, which at this time began to revive with a spirit more universal and determined than at any former period. . . .

The committee, after this interesting and perfectly ascertained narrative, proceeded to point out certain measures which they conceived it the duty of the Society humbly to recommend for the adoption of Government, for the extenuation at least, if not prevention of the evil in question. The first of those measures, which they suggested, was calculated to prevent the miseries and frequent death of such persons, as the situation of the country in its present state, defective as it is to a certain degree in the means of subsistence, and opportunities for industry, induce, or oblige to leave it. This was a law to regulate the conveyance and accommodation of the passengers in such voyages. The particulars to which those regulations were meant to refer, as absolutely necessary to the preservation of the health and lives of the emigrants, and which at present are so neglected as miserably to impair the one, and endanger the other, were stated by the committee to be,

1st, The size and tonnage of the vessels. A striking comparison was drawn under this head, between the ships in which the emigrants are

[1] *Prize Essays and Transactions of the Highland Society of Scotland*, Edin. 1803, vol. ii, p. vii. Copies of this Report went to Dundas and to the Treasury and the Home Department. The Chairman of the Committee of the Society was Henry Mackenzie, the Scots novelist, who in 1804 was appointed, through Dundas and George Rose, as Comptroller of Taxes for Scotland.

conveyed, and those which the law obliges traders to use for the transportation of slaves, and the preferable accommodation which was afforded to the latter.

The other particulars of which the committee recommended the legislative regulation, were the size of the births [*sic*], or sleeping places on board those vessels, the provisions to be furnished, and the medical care and assistance to be provided. They suggested the means of enforcing those regulations, which, besides having the effect of a certain necessary burthen on the voyages of emigrants, such as may prevent the unjust and tempting gains now accruing to the traders in, and encouragers of emigration, will afford to the country, losing part of its inhabitants, the consolation of their being carried in safety for the culture and improvement of another, instead of being, as now, delivered over by numberless privations, and the want of comfort and of care, to disease and destruction.

The remedial and preventive means which the committee recommended to the attention of Government, were such as must naturally occur to every one conversant with the present situation, and the capabilities of improvement of those districts of Scotland, from which emigration principally takes place. . . .

[The Report then enumerates a number of primary industries, particularly the growth of flax and wool, and the development of communications by roads and canals, which might provide employment at home.]

9

REPORT FROM THE COMMITTEE ON THE SURVEY OF THE COASTS, ETC., OF SCOTLAND, RELATING TO EMIGRATION, 13 May 1803[1]

The Committee, to whom the 'Survey and Report of the coasts and central Highlands of Scotland, made by the command of the Right Honourable the Lords Commissioners of His Majesty's Treasury, in the Autumn of 1802',[2] is referred, and who were empowered to report their observations and opinion thereupon, from time to time, to the House . . . will immediately proceed to the investigation of those measures which, by giving employment at home to the industry of a hardy race of people, may preclude them from the necessity of seeking subsistence in distant countries, and which will at the same time promote the general improvement and prosperity of the Empire; but, in the meantime, they think it necessary to call the most serious attention of the House, to the sufferings and hardships which those

[1] B.M., *Parl. Papers*, 1802–3 (45), vol. iv, Reports, 2.

[2] The Survey was made by Thomas Telford, the great road and bridge engineer. He suggested improvements in Highland agriculture and the encouragement of the fishery industry.

who have already emigrated, appear to have endured, for want of proper treatment on their passage, which, in the opinion of your Committee, demand the immediate interposition of Parliament, to prevent the recurrence of similar calamities.

Resolved, That it is the opinion of this Committee, that persons, emigrating from different parts of the United Kingdom, have, in various instances, suffered great distress and hardship, on account of the crowded state of the vessels, the want of a sufficient stock of provisions, water, and other necessaries for the voyage, and in various other respects.

Resolved, That it is the opinion of this Committee, that it is expedient to regulate the vessels carrying passengers from the United Kingdom to His Majesty's plantations and settlements abroad, or to foreign parts, with respect to the number of passengers which they shall be allowed to take on board, in proportion to the tonnage of such vessels, as well as with respect to the provision of proper necessaries for the voyage.[1]

Appendix (A)

Extracts from the Reports of the Highland Society of Scotland[2]

Highland Society Hall, Edinburgh, 12 January 1802.

His Grace the Duke of Argyll, President of the Society.
Right Honourable the Earl of Eglinton, 1st Vice-President, in the Chair.

At a General Meeting of the Highland Society of Scotland, constituted by Royal Charter, held this day, attended by about one hundred of its members, a Report was brought up from the Committee of Directors, and laid before the Society; whereof the tenor follows:

'That the evil of emigration is likely to be progressive, if not interrupted, may be inferred from the fact, that so great a number of persons propose to quit their native country during the ensuing summer. The industry of those who make profit by the conveyance of these deluded people across the Atlantic, cannot be expected to suffer any abatement; and their profits are increased by means which excite in the Committee the strongest regret, and which expose the emigrants to circumstances of suffering and distress, during the passage, which are shocking to humanity. . . .'

[The Committee cites a ship sailing for North Carolina in 1773: the conditions on board were so bad that many suffered from dysentery and 23 died on the voyage.]

'The Committee have also had occasion to see a printed petition to the Court of Session, taking notice of some facts relating to an

[1] As a direct result of these and other representations, the first Passenger Act (43 Geo. III, cap. 56) was passed in June 1803. The draft was prepared by C. Hope.

[2] The Highland Society was founded in 1787 to study conditions and promote improvements. It was a group of landlords in close touch with the Government through Dundas.

emigrant ship that took on board passengers at Skye, for Carolina, in 1791. In that case it appeared the vessel was of about 270 tons burthen: the number of passengers about 400, including women and children; so that their situation was most uncomfortable and dangerous, there being hardly room for them to stretch themselves. There were three tiers of beds fore and aft, and two amidship. The berths for a full passenger* were 18 inches broad. Those fore and aft were only about two feet high, including the space occupied by bedding, so that it was scarcely possible to creep into them. The others were a little higher, so that the passenger could turn himself on his side, and rest on his elbow.—To add to their calamities, they neither had sufficiency of victuals nor proper cooking utensils, there being only two pots, of 24 pints each; which were quite inadequate to the preparation, in any reasonable time, of a meal for 400 persons. Had the vessel made out its voyage, the chief part of the people must have been consumed by disease and filth; which last was horrible; but after being 12 days at sea, the ship was dismasted, and put back to Greenock, where many of the passengers, especially children, died from the effects of the short voyage they had made. These unfortunate people were completely cured of their passion for America, and happily found an asylum in the benevolence of Mr. David Dale, who employed them in his extensive cotton manufactory in the vicinity of Glasgow. . . .'

* [The Report adds this note:] The term 'full passenger' is explained in one of the documents produced.—Every person above 16 years of age falls under that description. Those under that age are classed together, and the amount of their ages divided by 16 gives a rule for estimating their space in the ship, the provisions allotted them, etc.

[Other cases of overcrowding are quoted.] 'The Committee have indeed perused a letter from Collector Campbell at Fort William, to the Secretary of the Society, giving an account of the accommodations on board these vessels; and the Committee mention that gentleman's name with pleasure, as his humane conduct in the inspection he made, deserves the highest approvation; but they are bound to mention (what they have from authority on which they have every reason to rely) that the accommodations of one of the vessels (and perhaps also of the other) underwent a considerable change after she left Fort William. The Collector mentions two tiers of berths, with a space between of ten feet for exercise. This was a movable platform; which when the vessel was afterwards fully loaded, was taken away to give place to a third and lower tier of berths; which the Collector never saw, and to which the port holes he mentions could furnish no circulation of air. It is accordingly stated that 53 of the passengers died on board one of the vessels before reaching America.'

[In March 1803 the Committee of the Highland Society reported that emigration was assuming 'more and more a serious and alarming aspect'. It was anticipated that more than 20,000 Highlanders would cross the Atlantic that summer.]

10

NOVA SCOTIA: LIEUT.-GOVERNOR LORD DALHOUSIE TO LORD BATHURST, 6 July 1817[1]

MY LORD, Halifax.

The arrival here lately of several large ships from England with numbers of passengers and emigrants induces me to bring the subject before your Lordship.

The enclosed statement of complaints made by the passengers on board the *Perseus* I had taken down; and I submitted to His Majesty's Council here whether I could render them any aid, or compel the master to carry them to their destination. The opinion was that there was no necessity for any interference in my official situation.

It appeared however that these people had been grossly imposed upon by the advertiser, FitzGerald, who with two brothers carry on a trade of this sort in London.

I leave it now to your Lordship to judge whether this matter be worthy of any further notice and by what steps.

I must add that it is quite lamentable to observe the state of misery and distress in which these people arrive here—finding no means of relief, they all proceed to the United States. . . .[2]

11

EXTRACT FROM AN EDITORIAL IN *THE TIMES* 31 March 1818[3]

An article in a Plymouth paper states (we use its own words) 'that the tide of British emigration to America is beginning to flow in this port, and many parts of the country around, to an extent which threatens the deprivation of some of our best artificers and workmen, and includes even persons, who, by their situation in life, might appear to have no cause whatever for quitting their country'. This is a subject of great importance, but full as much in a philosophic as a political point of view. We regret that our countrymen are leaving us. We think that, to a certain degree, they are the victims of infatuation and prejudice; and with a view to deter them, we have represented very fully, but we believe very faithfully, the hardships which they are to encounter, and the deprivations which they are to sustain, in other realms: however, there is no doubt that one part of the world as

[1] C.O. 217/99, pp. 213–14.

[2] The Passenger Act of 1817 (57 Geo. III, cap. 10), symptom of a changing Government attitude towards emigration, was somewhat easier in its conditions than that of 1803.

[3] *The Times*, 31 March 1818: No. 10,318, p. 2, cols. 4–5.

well as another was made for the abode of man; and that if the present emigrants suffer from this change of residence, yet may their descendants live comfortably in a state to which they never knew one that was preferable: nay so much are we children of habit, that, in a few years, those who now emigrate from us would deem it a fresh emigration from their homes to return to us. It is therefore greatly regretted by us at least, who are old-fashioned enough to conceive the strength of the country to exist in its population, 'in its bold peasantry', that any portion of these should be forever separating themselves from us; perhaps, at some future period, in the persons of their offspring, to swell the list of our enemies.

The only legitimate cause of emigration is a redundant population. Writers describe the early emigrations from Scandinavia, and the north of Europe, by which the southern countries were overflowed and subdued, as resulting from this cause. But a population is redundant, not abstractedly or absolutely, but relatively—that is, so far as it exceeds the means of support afforded by the earth under the existing systems of agriculture: and it is not wonderful that the barbarous hordes of the north, who, in the seventh, eighth, and ninth centuries of the Christian era, were both impatient of agricultural labours, and ignorant of agricultural arts, should quit a soil upon which they had expended no pains, and from which they expected no return, for possessions to be obtained by the sword. But if we look upon our own country at the present time, there certainly never was a period wherein that science, by which the earth is made to administer to the support of its inhabitants, was better understood in theory: there is still sufficient space of uncultivated or imperfectly cultivated land left for practice; and yet those by whose hands this earth ought to be tilled, for their own nourishment, quit it in unusual numbers, encounter the dangers of a long voyage, and fix their abodes in far distant regions. We may ridicule their folly, or reprobate their want of patriotism: we ourselves think that they are choosing the greater of two evils, in quitting this their native land, and settling in one of which they do not know the disadvantages: but men are not to be argued either into love or out of love with anything. This is a matter of sentiment; and if they feel no repugnance at deserting their homes, it is a sign that their homes are not so dear to them as they ought to be. We would wish the Government to consider this.[1] It is useless to attempt to detain the emigrants by force; the only claim by which they can be bound is cordial attachment: it is folly to abuse them for forsaking their native land: rather strive to make them love it, by the abundance which it produces, the freedom which it bestows, and the general ease, comfort, and happiness which is diffused over it.

[1] In July 1819, however, the Government decided to assist emigration as a means of frontier defence at the Cape: see *Parl. Debates* (1819), xl, 1549–51. *The Times* by then was supporting State-aided emigration: see above, p. 313.

Whatever we have said above of peasants, or labourers of the earth, applies also to artificers. There are the same means of forcing trade as of forcing natural productions; only remove the burdens, facilitate the operations, and even study the tempers of those who are engaged in the two pursuits. But to make men love a thing, even though that thing be their native land, it is not sufficient to tell them that they ought to love it: no, it must be rendered lovely.

12

R. J. WILMOT HORTON: PAPER AND EVIDENCE SUBMITTED TO A SELECT COMMITTEE OF THE HOUSE OF COMMONS ON THE EMPLOYMENT OF THE POOR IN IRELAND, 2 July 1823[1]

The Government, desirous of alleviating the inconveniences of excessive population in Ireland, and at the same time of giving to the provinces of Canada, an accession of emigrants capable of improving the advantages afforded by those colonies to active and industrious men, has taken into consideration the expediency of providing for the transport and location of a certain number of settlers, on a system which will best ensure their immediate comfort and their future prosperity.

And as it has been found that many persons have of late years, in the hope of bettering their condition, been induced to remove from Ireland, and seek an asylum in a foreign country, suffering many immediate privations from the want of assistance, and having no security for their future comfortable settlement, there can be little doubt that this offer of Government, to convey such as may be willing to emigrate to a colony in which many of their countrymen are happily settled, and when they have the certain prospect of maintaining themselves in comfort, and being useful to the empire, will be gladly embraced.

Although it is probable, that on experience of the good effects of affording these facilities, the Government may be induced to extend the scale in future, it is thought prudent to attempt nothing more this year than can certainly be carried into effect, with a due regard to the comfort of the emigrant, and to public economy in the conduct of the measure; and accordingly it has been ordered that means shall, with as little delay as possible, be provided in the harbour of Cork for

[1] *Parl. Papers*, 1823 (561), vol. vi, pp. 168–9, 179. *Wilmot Horton* succeeded Goulburn as Under-Secretary for the Colonies when the latter in December 1821 became Irish Secretary. He believed strongly that colonies were an integral part of Greater Britain and the main remedy for distress at home. He was a member of this Select Committee. This paper and plan were enlargements of a proposal which he had submitted to the Agricultural Committee in 1822.

conveying to Quebec such persons, not exceeding five hundred in number, as are willing to become settlers in the province of Upper Canada.

To ensure as much as possible the welfare of the emigrants, and in order that every necessary arrangement may be made for their comfortable settlement upon their lands, a gentleman, who has long been a resident in Upper Canada, has, at the request of the Government, undertaken to superintend the embarkation of the settlers, and to make the necessary previous dispositions for their reception in Canada, and their location upon their lots.

He will proceed immediately to —— when all applications are to be addressed to him in person; and as, from the present advanced state of the season, no time is to be lost, no persons can be received who shall not be ready to embark on the first day of July next.

To all who may be disposed to emigrate from —— and who may be accepted by the superintendent, the Government will afford a passage to Canada, and will convey them to their lands free of expense; provisions will be found them, and they will be furnished with medical assistance during the whole of their voyage and journey. Upon their arrival on the tract destined for their settlement, every male emigrant above the age of eighteen years, and under forty-six, shall receive a location ticket or order for seventy acres of land; the utensils necessary for a new settler shall be furnished them at the public expense; and they shall receive provisions for one whole year after they shall have taken possession of their lands.

As an inducement to industry and good conduct, an additional tract of thirty acres shall be reserved, adjoining to each grant of seventy acres, of which the right of pre-emption, upon the terms which will be explained by the superintendent, shall be preserved for ten years to the proprietor of such adjoining tract. The terms upon which such additional grant will be made, with the mode and time of obtaining the patent for the first grant, the fees of office to be paid upon the same, and the conditions which will be annexed to it, are all particularly set forth in a paper printed by authority, which will be furnished by the superintendent to each settler, and of which the terms will be rigidly fulfilled by the Government; and such conditions as are incumbent upon the party, will require to be, in like manner, punctually performed.

As it is extremely desirable that the assistance thus offered by Government shall be afforded only to persons capable of becoming useful settlers in a new colony; it is to be understood that no person shall receive land under this system who shall be, at the time of his emigration, above the age of forty-five years; and, in the present instance, it is deemed prudent to confine the selection to persons having more than three children, under fourteen.

It is scarcely necessary to mention, that the province of Upper Canada, in which a settlement upon such advantageous terms is thus

offered at the public expense, possesses every recommendation of climate and soil which an emigrant can desire; and the certainty and ease of acquiring a comfortable and independent livelihood there, is abundantly proved by the present condition of persons who have for some years past been emigrating to that province from all parts of the United Kingdom, many of them without any aid from the public, and at the same time wholly destitute of private means; others under the superintendence, and with the assistance of the Government; but now upon terms so fully calculated to obviate every difficulty attending the removal to a new country.

It is the desire of Government that the offer should be urged upon none who are not willing to accept it, as it is a principal object of the measure to prevent the inconveniences of a casual and undirected emigration, which in too many cases ends in disappointment to the emigrant, while it is useless, if not rather prejudicial to the empire; and if the experiment now intended to be made, shall prove satisfactory to the parties, and beneficial to the public interests, it is probable that the same system may be pursued to a much more considerable extent in future years; dependent, however, upon the good conduct in the colony of those who may be anxious to avail themselves of the present offer, as well as on the future claimants for similar assistance, whom it is out of the power of Government to remove in the present year.

[He submits a detailed plan for emigration to Upper Canada: a system which, he says, would be a 'safety valve' for the 'inconvenient excess of population', a means for spreading abroad British ideals, and a canalization of emigration towards parts of the British Empire 'which must be considered as integral, though separated by geographical position'.]

. . . . . .

[Evidence.]

In carrying this scheme of emigration into effect, has it been the object of Government to induce the emigration of persons possessing capital, or of persons in the lower condition of life?—It has strictly been confined to persons in a lower description of life, who are not possessed of any capital whatever.

In districts in Ireland in which the evil of an overpopulation has been very strongly felt, supposing security given to Government for the payment of an annual sum, sufficient to secure them from the advance that has been made, do you conceive that there would be any difficulty in carrying the scheme of emigration, of which you have now spoken, into effect?—I conceive that there would be no objection in principle to advancing money for the purpose of carrying the system of emigration into effect, provided that adequate funds were pledged for the repayment of such money at a future period.

By whom are those funds to be pledged?—By parties who are enabled to give adequate security for the repayment.

Are the emigrants themselves to make this pledge, or persons

interested in sending them out in Ireland?—I mean distinctly persons in Ireland, who are interested in sending them out; but by way of example, I would suppose, that a committee should be formed in Ireland for the purpose of facilitating emigration, if that committee could furnish adequate security for the repayment of money advanced by Government, with interest, I cannot conceive in principle that there would be any objection to such an advance upon the part of Government; it would at the same time be in the power of that committee to make any terms with the individuals who are to take advantage of the emigration, for the purpose of repaying to the committee the sums for which they might make themselves answerable to the Government.

Do you conceive that the emigration from Ireland could be carried on by private individuals?—From every opportunity of information that I have received, I should answer most unquestionably 'with the assistance of Government'.

From the information which you have received of the state of Upper Canada, do you consider that emigration from Ireland might be carried on to a very considerable extent, and to the profit of that colony?—I consider that the emigration from Ireland might be carried to an indefinite extent; but with respect to the benefit of the colony, that must necessarily depend upon the conduct of the emigrants who might be progressively settled there.

Has there been any communication made to the Colonial Office, which leads them to anticipate the good conduct of the emigrants who are likely to go out from Ireland?—I am not aware that any direct information has been received to that effect; but most undoubtedly the impression has been produced in my mind, from various conversations I have had with persons long resident in Upper Canada, that the bad character of parties previous to emigration is no indication whatever of their subsequent conduct.

Will you have the kindness to inform the Committee whether there is any expression of opinion contained in the Report to the King's Government, from the commissioners lately sent out to New South Wales, upon this subject?—In the First Report of the Commissioners of Inquiry there is the following passage; 'The convicts embarked in Ireland generally arrive in New South Wales in a very healthy state, and are found to be more obedient and more sensible of kind treatment during the passage than any other class. Their separation from their native country is observed to make a stronger impression upon their minds, both on their departure and during their voyage, and the ignorance in which most of them are respecting their future fate, tends to preserve those salutary impressions until its termination.'

Has there been any experiment tried with reference to emigration from Ireland to the colony of the Cape of Good Hope?—There is an experiment at this moment in operation; three hundred and fifty

persons are to be sent out, who are to be articled to Mr. Ingram,[1] who has for some time been a resident settler at the Cape.

Have you received any report of the success of Mr. Ingram in any former experiment which he has tried?—Mr. Ingram went out to settle at the Cape in the year 1819; he took out with him a capital of about the value of 1,800*l.*: he also took out twenty-seven men, twelve women, and twenty-nine children, all articled to him for the space of three years. The terms of his agreement with those parties were, that mechanics were to receive 1*s.* per diem wages in money; labourers 6*d.* per diem, and food for themselves and families; the time of those persons so articled has expired, and they are all in full employment, in different services, and receiving an infinitely higher payment of wages than what Mr. Ingram gave. Mr. Ingram has a grant of seven thousand five hundred acres at Clanwilliam, which is situated about one hundred and forty miles north of Cape Town. . . . Mr. Ingram left the colony, and returned to Great Britain with the intention of taking out with him to the Cape his family, who had not accompanied him in the first instance, and fifty labouring men agriculturists. His motive in returning home was to secure European labourers, as he perceived that a pledge had been given that slave labour was not to be employed on new grants.[2] He proposed to make similar terms with those fifty men that he had done with the former settlers. He then came to the colonial department to ascertain whether he could receive any facilities; for if the expenses of transport and food could be defrayed for him during the passage, he should be very glad to take out five hundred individuals upon the same terms. The government gave Mr. Ingram no assistance with respect to the fifty that he intended to take out for himself; but with a view of encouraging a partial emigration from the south of Ireland, in combination with the other emigration which it was intended to encourage to the province of Upper Canada, they consented to allow 14*l.* per head for the transport and food of the three hundred and fifty individuals, who were to be subject to the same treatment which Mr. Ingram had engaged to apply to the fifty individuals who accompanied him on his own account; all those individuals are under articles of indenture to Mr. Ingram, and those articles fully explain the nature of the terms entered into. This emigration evidently has not the least of the character of the emigration to Canada, being founded merely on the demand for labourers at the Cape; and there is no doubt, after the experiment had been made, that individuals, finding the terms upon which they can obtain labourers, will be induced on their own account to advance the money necessary for effecting any second emigration of the same character.

[1] John Ingram had advocated assistance to individuals rather than Government emigration schemes. See *R.C.C.* (1903), vol. xvi, p. 17.

[2] See below, pp. 555–6.

Are the same observations you made with regard to the saving to individuals in emigration to Canada, by the assistance of Government in the expense of emigration, also applicable to emigration, to the Cape?—I do not think that the same advantages would exist with respect to emigration to the Cape, as that would entirely depend upon the expenses of passage; it would require no arrangement but their reception in the families of those settlers who were willing to take them as articled servants.

13

JOHN ASTLE TO R. J. WILMOT HORTON

28 April 1824[1]

Dublin.

SIR,

The Act of Parliament for regulating passengers passed in last session[2] being found by the mercantile body in this country quite unfit for its intended purpose as regards Ireland, and being informed by Sir H. Parnell that it was introduced under your auspices, I have ventured to trespass on your attention a few remarks on the subject. Should you think it worth referring to the Commissioners of Customs or their solicitor in Ireland, I am confident you will find that the Act in question has been the cause of more references and opinions than any other law regulating a particular trade. It has been evidently framed with the benevolent purpose of providing a better and larger description of shipping for emigrants, but Sec. 3 is worded so loosely, as to what is intended by 2 decks, that the smallest vessels obtain a licence, and at this moment one of only 140 tons is taking in 70 passengers. This clause wants alteration, as timber ships have rarely 2 standing decks, but only make one temporary for passengers. . . . Perhaps the most objectionable section for Ireland is the 11th. The emigrants from this country being most poor Catholics are not accustomed to beef and biscuit and do not like it, in fact they are not able to purchase it, if they did. This year I sent out a ship to Quebec in Lent, and was obliged to supply large quantities of beef and biscuit merely to comply with the Act, although it will be brought back untouched, a clause for Ireland for each grown person bound to America might be say 112*lbs.* oatmeal, 50*lbs.* oaten or wheaten biscuit or flour, 2*cwt.* potatoes, and 20*lbs.* beef, pork or bacon, and 50 gallons water. . . .

Sec. 23 nominally places foreign vessels under its regulations, but the United States by treaty being on the footing of British ships,

[1] C.O. 42/202. *John Astle* was a Dublin shipowner of strong *laissez-faire* views.

[2] 4 Geo. IV, cap. 84, a statute reverting to the more stringent conditions of 1803, had been passed in July 1823 due largely to the gross overcrowding of a ship to Van Diemen's Land.

instead of their old allowance of one passenger to every 5 tons, now claim and take, if they please, one to every 2 ton. By this means the British ship owner is robbed of a valuable trade, and although apparently fair he is driven to a very unfair competition. For what cruiser dare search the American at sea? Neither has he any inspection to undergo at his own port, to both of which the British vessel is subject. They also carry part cargo to the States when we cannot to Canada. As I before anticipated, it has advanced the rate of passage from 40/- to £4 and £4 10., in consequence of which advance this year fully one half are going directly to the States, which in a political point of view to me appears very questionable policy to encourage when last year in Quebec alone landed from Ireland 12,900. This year there will not be 5,000. Should you wish to turn the emigration again to Canada without infringing existing statutes, repeal Sec. 5, and allow no vessel carrying more than one fifth of her register tonnage of goods, whether British or American, to obtain a licence, and permit all vessels unladen to take one for every 2 tons. The British ships obtain little or no cargo, but the others do. . . .

14

ALEXANDER BUCHANAN: EVIDENCE BEFORE THE SELECT COMMITTEE OF THE HOUSE OF COMMONS ON EMIGRATION FROM THE UNITED KINGDOM, 3 March 1827[1]

. . . 816. Have you made any comparison between the expense that will be occasioned by the restraints proposed in this Act,[2] which has been laid before the Committee as a substitution for a former Act, and the expense occasioned by the Act of the year 1825?—[3] I have. . . .

846. Do you consider that any expense would be incurred in consequence of those regulations [of the Act of 1823], which would of necessity add to the expense of the passage?—None whatever.

847. Then you are of opinion, that if those regulations were considered to be necessary, there would be no objection against them upon the ground of any real inconvenience being sustained by the trade in consequence of them?—None whatever; I am satisfied they would be approved of, both by the emigrants and the shipowners.

[1] *Parl. Papers*, 1826–7 (550), vol. v, pp. 106–10 *passim*. *Alexander Carlisle Buchanan* had had thirty years' experience in passenger traffic from Northern Ireland and America. In 1828 he was sent by Huskisson to Quebec in order to supervise parish-aided emigration.

[2] This proposed Bill, prepared by Wilmot Horton, who was Chairman of this Select Committee, was presented on 5 April 1827, but the Committee in his absence recommended the total removal of all restrictions.

[3] This Act (6 Geo. IV, cap. 116) was supplementary to the Act of 1823, which remained in force until repealed in May 1827.

848. Do you entertain the opinion, that the parties going out would rather be protected by legislation to the extent proposed, than to have no legislation upon the subject?—I am perfectly satisfied they would.

849. Are the Committee to understand that they object very much to those extreme regulations, which make the expense of the passage beyond their means?—They have a great objection to being obliged to have a particular description of provisions, but that has been latterly dispensed with.

850. Then, in point of fact, has emigration from Ireland been prevented, in consequence of that part of the Act which relates to provisions?—I do not think it has.

851. As you have stated that the restrictions of this Act with respect to provisions have been virtually superseded in practice, it is presumed that emigration from Ireland cannot have been prevented by the operation of this Act?—To a very small extent; perhaps to the amount of 100 a year or 200 a year more at the outside might have gone; the difference can only be about 10 or 12 shillings in the expense. I have heard a great many statements made about the Passengers Act; as to the Act increasing the expense of passage to the United States, and amounting to a prohibition of emigration, I am satisfied that if the Act were repealed, the price would not be diminished one farthing, as the American law imposes a greater limitation as to number than the British and other local regulations. . . .

856. You are not aware that in the south of Ireland the peasantry never taste bread from one year's end to another?—I am not aware that they never taste bread, they chiefly live on potatoes; but this Act merely says that there shall be that quantity of that or any other wholesome food equivalent thereto; I only submit that there should be a certain quantity of something on board, enough to keep them in life for 75 days. . . .

862. How many emigrants, according to the regulations of this Act, would be shipped on board a vessel of 350 tons?—I have put on paper a few observations with respect to the points of difference between the proposed Act and the former Act, which I will read to the Committee. In the first place, the proposed Act permits the ship to carry her full number, say one to two tons register, children in proportion, exclusive of the crew; the former Act included the crew. Secondly, it dispenses with carrying a doctor; the former Act imposed that necessity. Thirdly, it permits the ship carrying cargo, reserving a sufficiency of space, with the whole of the between-decks, for passengers, provisions, water, etc.; the former Act prohibited carrying cargo, or it was so construed by the Irish Board of Customs. Fourthly, it relieves the shipowner and captain from obnoxious and frivolous clauses and expenses that never perhaps would be resorted to, but operated in the calculation of a conscientious shipowner, not to permit his ship to embark in such trade. Fifthly, it permits the passenger

or emigrant to lay in his own provisions, or to make any contract they think fit with the captain for that purpose, the captain being responsible that a sufficiency of wholesome food for 75 days of some kind is on board for each adult passenger; the former Act obliged the ship to have on board a particular description of provisions, not suited to the habits of emigrants, and of increased expense. And the proposed amended Act gives every protection to the emigrant, at the same time removing many absurd difficulties to the ship, and permits as many passengers to be put on board as could possibly be justified with any due regard to their health and lives. . . .

863. If there were no responsibility imposed upon the captains of vessels, either with respect to provisions or with respect to tonnage, are you apprehensive that captains might be found who would be willing to incur risks from which great evils might occur to the passengers?—I am afraid many instances might occur, and unless some legislative regulation existed, I fear captains and shipbrokers would be found that would cram them into any extent, and great hardship would be likely to follow.

864. Do you know of any serious consequences that did arise previous to the passing of the Passengers Act?—I know instances where passengers were carried a thousand miles from the place they contracted for.

865. You know of cases of great individual hardship and suffering?—I do not know of any myself personally, but I have heard of several, particularly a brig from Dublin a year or two ago; but there are positive instances of a number of lives being lost in foreign vessels going from Germany to Philadelphia, which was the cause of the American Act being passed. . . .

870. Are you not aware that in 1824, that is, the year after the Passengers Act passed, the number of 10,300 was reduced to 7,500?—I am not aware particularly, I think it very possible; we can always tell in the season before, in the north of Ireland, whether we are likely to have a large emigration; it depends upon the success that the emigrants met with in the preceding year; they write home letters, and if the season has been favourable, if there has been any great demand for labour, like the Western Canal, that absorbs a great many of them, they send home flattering letters, and they send home money to assist in bringing out their friends.

871. If the fact be as it has been stated, that in the year in which the Passengers Act passed the number of emigrants was 10,300, and the year immediately after the passing of it, it was reduced to 7,500, would you not be disposed to ascribe some portion of that diminution to the passing of the Passengers Act?—I think there has been more stress laid upon the Passengers Act than is warranted by the fact. . . .

15

THIRD REPORT FROM THE SELECT COMMITTEE ON EMIGRATION FROM THE UNITED KINGDOM, 29 June 1827[1]

. . . . . .

IV. *Remarks on the application of a system of regulated emigration to the circumstances of the three countries.*

. . . There are persons who are disposed to argue that a redundancy of labourers is calculated to promote the interests of the proprietors and capitalists; for the consequence of that redundancy will be a progressive diminution of the wages of labour, and, consequently, that although the labourer himself may be miserable, in consequence of such redundancy, lowness of wages will compensate the proprietor and capitalist for any other expense which a state of pauperism, under the proposition of such a condition of the population, must produce. But even if it were admitted that the capitalist, for the moment, was benefitted by the reduction of wages to the *minimum* of subsistence, your Committee are satisfied that the House will in no degree countenance the opinion, that such a state of things would be desirable in a national point of view, but that, on the contrary, the House will agree with your Committee, that the general prosperity of the country is incompatible with the degradation of any class of the community, much more so, with the degradation of that class (by far the most extensive) who have solely to depend upon the remuneration of their labour for their means of subsistence. . . .

It is sometimes laid down, that if any class of labourers be rejected as unnecessary in any particular employment, they will be absorbed in some other branch of industry. But the evidence before your Committee induces them to believe that there is generally such a glut of labour throughout the country, as to leave no hope of such absorption by transferance from one employment to another. Witnesses were asked, whether there was any chance of those redundant paupers in their respective districts finding employment elsewhere, and the uniform answer was, that if they did go out in search of labour, they were returned on the parishes and districts after an ineffectual effort. In this part of the subject it is necessary not to overlook the difficulty and inconvenience of taking men from one class of occupation, and expecting them immediately to adjust themselves to another.

In such case of admitted redundancy, your Committee are aware that the doctrine frequently employed is, that it must correct itself by the mortality which diminished food and comfort must produce in the classes of the population in which such redundancy exists. Your Committee would be most unwilling, in any degree, to encourage the

[1] *Parl. Papers*, 1826–7 (550), vol. v, pp. 15–41 *passim*.

opinion, that it was not in the strictest sense the duty of a poor man to estimate his means of providing for a family before he places himself in a situation to have one to provide for; but maintaining, in the strictest sense, the necessity of enforcing that salutary principle, your Committee think that the ordeal through which the redundant population must pass before this kind of remedy can be administered, is one which cannot be contemplated by any wise Government with indifference.

It is under this state of things that emigration appears to your Committee to be a remedy well worth consideration, whether with reference to the improved condition of the population at home, and the saving of that expense which as it appears to your Committee is now incurred in maintaining a portion of them, or with respect to the prosperity of our colonies, increasing thereby the general prosperity of the Empire. And they consider the resource of emigration still more valuable, inasmuch as, unless the evidence taken before your Committee, in itself of the very highest authority, shall prove to be inaccurate, the expense of emigration as a national measure will be limited to the mere lending of the capital of the country, with the certainty of not only an indirect but a direct return. . . .

VIII. *Concluding observations upon the advantages of a regulated emigration, both to the colonies and to the mother country.*

Your Committee would shortly call the attention of the House to those natural and artificial checks which, if emigration be expedient as a national measure, will prevent its ever being carried on to a degree prejudicial in any sense to the interest of the mother country. *First*, as the emigration is to be strictly voluntary, very few labourers will be disposed to leave their own country, who find that their labour can produce a return sufficient to maintain themselves and their families at home. *Secondly*, as the expenses of the passage of the emigrants to the colonies, if the suggestion of your Committee be adopted, will fall exclusively upon the district, parish, or individual who may consider such emigrants redundant, either as tenantry, or as labourers, no contribution will ever take place to aid emigration, except in cases where such conviction distinctly exists as to its necessity. *Thirdly*, if any attempts should be made by districts, parishes, or individuals to get rid of parties, being infirm persons or of bad character, it will be the duty of the Emigration Agent, provided that a Board be formed on the principles recommended by your Committee, to reject all such applications as inadmissible under the proposal offered by the Government: the assistance of Government being strictly extended to such class of emigrants only as are specified in the two first propositions.

The carrying on of any regulated system of emigration upon an extended scale can only be justified by the blended consideration of two main and principal points: *first*, the real saving effected at home

by the removal of pauper labourers, executing no real functions as labourers, and not contributing to the annual production; *secondly*, the probability of direct though progressive repayment from those labourers, when placed as emigrants in the colonies, and the indirect consequences of the increased demands for British manufactures, involved in the circumstance of an increasing colonial population.

It will be seen, by reference to the evidence of Mr. Malthus, that he admits, if there are labourers in the country for whose labour there is no real demand, and who have no means of subsistence, those labourers are of no advantage, as far as the wealth of the country is concerned; and consequently, that if they were to die, or to be removed, the wealth of the country would in no degree be diminished by their decease or removal. He considers labourers in this state of redundancy, as operating as a tax upon the community. Your Committee have referred to this opinion, because there is much prejudice in the country upon this particular part of the subject among persons who imagine that any abstraction of the population must be attended with prejudicial consequences to the general wealth and prosperity of the country; a proposition precisely the converse of what your Committee believe to be true in the case of labourers, for whose labour no real demand exists. Mr. Malthus admits that if it can be shown that the expense of removing such labourers by emigration is less than that of maintaining them at home, no doubt can exist of the expediency of so removing them; and this, independent of any question of repayment. A question was put to him, 'You have referred more than once to the *expense* supposed to be sustained by the Government for emigration; would you continue to use that phrase, if it could be demonstrated that the *expense* would be repaid by the production of the emigrant in the new country to which he is taken?' He answered, 'That if it could be, he should not continue it.' He was of opinion that the general wealth of the empire would be increased by an accession of population in the colonies, independently of the advantageous consequences resulting to this country from the abstraction of that population which is here in redundance; and that the introduction of English population into those colonies would tend to furnish a very valuable market for the labourers of this country, even if they were not to continue to belong to the British empire.

William Penn, in his *Benefit of Plantations or Colonies*, after adverting to the various emigrations recorded in history, says:—'I deny the vulgar opinion against plantations, that they weaken England; they have manifestly enriched, and so strengthened her, which I briefly evidence thus: *those that go into a foreign plantation, their industry there is worth more than if they staid at home.*' Again: 'They are not lost to England, since England furnishes them with much clothes, household stuff, tools, and the like necessaries, and that in greater quantities than here their condition could have needed, or they could

have bought, being there well to pass that were but low here, if not poor, and now masters of families too, when here they had none, and could hardly keep themselves; and very often it happens that some of them, after their industry and success have made them wealthy, return and empty their riches into England, one in this capacity being able to buy out twenty of what he was when he went out.' The inquiry into which your Committee have entered, establishes a proposition precisely similar, and furnishes the principal justification of suggesting an appropriation of the public funds, by way of loan, for the purposes of emigration.

It is advanced, as an argument against emigration, that if redundancy of population arises from an excess of labour as compared with demand, that is, with capital,—if both labour and capital be abstracted in proportionate quantities, the ratio of redundancy will still exist precisely the same, that is, supposing that the capital withdrawn bears the same proportion to the capital remaining, which the population withdrawn bears to the population remaining; and consequently, that although the numbers of the population may be actually diminished by emigration, the ratio of their redundancy to the capital of the country may still remain the same. Undoubtedly, if the 95,000 persons proposed to be removed, were now sustained at home by a *productive* capital of the amount of £1,140,000, the removal of *both* would leave the real condition of the country very much the same. But the capital that may be supposed to support those labourers at home, is strictly an *unproductive capital*, in other words, it is mortgaged to the compulsory maintenance of parties who are themselves allowed to be unproductive labourers. If, therefore, which your Committee would not be in any degree prepared to admit, the capital necessary for the locating of them as emigrants were precisely of an equal amount to the capital now employed in the maintaining of them at home, still the transfer of the same amount of capital from the one appropriation to the other, would be a transfer from an employment both compulsory and unproductive, to one strictly productive, if the evidence taken before your Committee can be relied upon.

Your Committee are fully aware that if it could be demonstrated, or even shown to be probable, that £1,140,000 or any greater or less sum, could be employed in any part of the mother country, with the presumption of an equal amount of wealth being produced, and consequently with equal security of return, as in the case of emigration, and above all, if the comfort and independence of the 95,000 persons proposed to be removed as emigrants, could be equally secured by employment at home, a very strong argument might be raised against the expediency of emigration. But the opinions to be derived from the very extensive evidence taken before your Committee, in which the subject of cultivating the waste lands of the mother country has been fully considered, are conclusively in favour of the profit to be derived

from the employment of capital in the cultivation of the fertile lands of the colonies, as compared with the unproductive *appropriation* of capital at home in the employment of these paupers: and the House will understand that it is upon these opinions that the recommendation of your Committee is formed. Even if the consideration of the double returns for the capital advanced for emigration were put wholly out of sight, namely, the *direct* return by the repayment of the loan advanced to the emigrant, and the *indirect* return arising from the additional markets furnished for the commodities of the mother country, as well as by the general increase of the wealth of the Empire. Your Committee are nevertheless satisfied that if it *could be proved* that the 95,000 persons were strictly redundant (in the sense employed by your Committee), and *that the vacuum would not be filled up*, the expenditure of £1,140,000 for their removal would, in a national point of view, be an advantageous and judicious outlay. But as the *precise* extent of the redundancy of those persons could never be *absolutely* proved, and as no *conclusive* security could be obtained for entire prevention of the filling up of such vacuum, they are prepared to allow that a national outlay for the purpose of emigration, unless attended with return, direct or indirect, could not be justified.

In illustration of this opinion, if the two results considered in the preceding paragraph could be warranted, namely, that the vacuum could be prevented from being filled up, and that the labourers are strictly redundant, the proposition would stand thus:—The 95,000 persons, being destitute of all property, and not receiving wages, must necessarily subsist on pecuniary relief in some shape or other. The evidence before your Committee shows that £3 per annum [which] is the estimated minimum of the average cost of sustenance of each of those 95,000 persons, amounts to £285,000 and a charge to that extent is a tax upon the productive industry of the community. The difference therefore between the interest upon the loan proposed to be advanced for a regulated system of emigration, namely £57,000 a year, and the computed annual charge of £285,000 being £228,000 must be considered as clear and entire gain to the community. In other words, the ratio of capital to population at home would be augmented, instead of being lessened, or even remaining the same, after the emigration of those 95,000 persons.

The House will not fail to observe, that if emigration could be carried on as a national system, the colonies would increase rapidly in wealth, and have the means furnished them of taking upon themselves the various expenses, military as well as civil, now incurred for them by the mother country; and this without any addition to their burdens, but on the contrary accompanied with an increase of wealth more than proportionate to the expense which they would have to take upon themselves.

With a rapidly increasing and thriving population, and under a

liberal system of colonial policy, the North American colonies cannot fail to attain, at a comparatively early period, the means of relieving the mother country from the annual expense incurred in their maintenance; whilst by the general establishment of our colonial relations upon the principle of reciprocity of benefits arising from commercial intercourse and the operation of common interests, the question will be solved, of the advantages which a parent State is capable of deriving from a well-organized colonial system. The population being thereby materially increased in our colonies, a perpetually increasing demand would exist for the manufactures of the mother country; and this not in the slightest degree arising from the relation between colonies and a mother country, but on the mutual interests of the two countries, as it would be more to the interest of the British colonies to purchase manufactures from the mother country, than to become manufacturers themselves. On the other hand, it would be more to the interest of the mother country to employ her capital in the fabrication of manufactures so wanted, than to employ it in the cultivation of her own waste lands of inferior fertility.

Wherever there is an indefinite quantity of unoccupied fertile land, wages will of necessity be high, and manufacturing capital will not naturally establish itself under the circumstances of population incident to such a country. Manufactures can only be extensively produced in a country where a great number of hands are withdrawn from the cultivation of the ground, in consequence of the land producing no adequate return of profit from increased cultivation. . . .

16

WILLIAM TODHUNTER TO LORD GODERICH, 8 June 1827[1]

Cork.

VISCOUNT GODERICH,

The repeal during the present session of the Act[2] for regulating the conveyance of passengers from the United Kingdom to the British possessions in North America, having occupied much of my attention, and being seriously apprehensive that it is a measure fraught with great danger and likely to be productive of much waste of human life, the propriety of making some effort during the discussions in Parliament on the subject frequently occurred to me. I have however been deterred by the ill success that has attended my former endeavour to create an interest in quarters to which I had looked for that

[1] C.O. 42/214. *William Todhunter*, a Quaker shipowner of Cork, had worked for many years in an effort to obtain further supervision and control of passenger vessels.

[2] The stringent Act of 1823 (4 Geo. IV, cap. 84) had been repealed in May 1827 (7 and 8 Geo. IV, cap. 19), and the resulting freedom from control proved disastrous.

purpose. . . . At all events in doing so I shall acquit myself of an obligation on the score of humanity which will be a relief to me, whatever may be its fate. The grounds upon which, as far as I could collect them from the reports of what occurred in Parliament, the repeal of the restrictions was advocated, were, that emigrants might safely be left to take care of themselves, that the regulations, both with respect to numbers with reference to the capacity of the ship as well as quantity and kind of provisions, had a tendency to increase unnecessarily the expense and in consequence operated as a check upon emigration, and that it was therefore desirable that those restrictions should be done away: now my opportunities of observation have neither been few, nor of short duration, and my experience has brought me to quite an opposite conclusion upon the points to which I have adverted and so strongly had the necessity of more vigilant care to prevent the violation of the rules, by which the law regulated the matter impressed me, that I had addressed a letter to a late member of the administration upon the subject, before the commencement of the session of Parliament, the substance of which I beg leave to transmit herewith.

I recollect the circumstances which gave rise to the lately repealed restrictions, the crowded state of the vessels and the want of regulations otherwise had been the cause of very great mortality, and there is no reason I apprehend to calculate upon a different result attending similar circumstances now, and I have reason to know that the desire of gain has induced the owners of ships to avail themselves to the fullest extent, and beyond all reasonable bounds, of the liberty which the repeal of the restrictions has afforded them:—upon the point of the necessity of imposing restrictions in such cases, I think the conduct of the legislature of the United States of America is worthy of consideration. It is to be presumed that the increase of labourers with which emigration from these countries is the means of supplying them is a valuable acquisition to a country circumstanced as that is and therefore they can have no reasonable motive for imposing the restrictions which they have done, and which they rigidly enforce, except humanity; the effects resulting from the crowded state of passenger ships have been presented to their view in all its horrors, and they have endeavoured so far as in them lay, to protect those wretched people from the consequences, in a way which our own legislature has thought fit to forego, as if to get rid of the superfluous population was the sole object in view. . . .

[He cites two recent cases of overcrowding.]

I would suggest the propriety of the Government directing a strict inquiry into the circumstances of these two cases—as well as instructing the authorities in the colonies to report to the Government at home the arrival of all emigrant ships, their tonnage, number of passengers, together with the casualties of the voyage, and I have no

doubt the result will be a conviction of the necessity of returning to the restrictive system.

It requires an intimate acquaintance with the subject to be aware of the various species of fraud by which emigrants are imposed upon, one very common one is exhibited in the newspaper which I enclose; two vessels advertised there are stated at more than double their actual tonnage, the ignorance that can be imposed upon by such a device surely requires to be protected.

I shall not apologise for this freedom, believing that the importance of the subject will at all events recommend my letter to attention.

I am very respectfully thy sincere friend,

WM. TODHUNTER.

17

NOVA SCOTIA: REPORT OF A COMMITTEE OF THE COUNCIL, 20 November 1827[1]

[Halifax.]

The Committee of His Majesty's Council appointed to examine the accounts rendered for the expenses of the hospital established at Bankhead for the reception and relief of the sick among the unfortunate emigrants who arrived during the season from Ireland:

Report that they have examined the said accounts and find regular vouchers for all the payments. They think that the establishment has been conducted with as much attention to economy as was practicable, and that the public are much indebted to the zeal, activity, and humanity of the Committee appointed by His Excellency and the Commissioners of the Poor for the town of Halifax, by whose unremitting exertions the distresses of the unfortunate sufferers have been much alleviated and the progress of disease checked.

The Committee cannot close this report without calling the attention of His Excellency and the Board to the pernicious effects which have ensued from the removal of those regulations which the wisdom and benevolence of Parliament established for the government of vessels bringing emigrant passengers from the mother country. These unfortunate beings are no longer protected by the wholesome restraint which was formerly imposed upon the cupidity and want of principle of those who engage to provide them with passages across the Atlantic, and are now crammed together on board of vessels without any adequate means of subsistence, without medical aid, or room to afford them decent accommodation. Under these circumstances disease is inevitable, and the wretched beings are not only thrown on shore in a state which renders them incapable of procuring their own

[1] C.O. 217/147, pp. 315–17. Enclosed in Kempt to Huskisson, 25 November 1827.

subsistence, but they carry infection among those who may charitably receive them. The law which restrained these evils is no longer in force in Great Britain, and we have no legislative enactment here to prevent the recurrence of the calamity which we have endured this year, or to punish the authors of it. The United States on the contrary have most wholesome regulations upon this subject, and, while this state of things continues, it is obvious that the refuse only of the superabundant population at home will come to us, while all the valuable and useful emigrants will embark for the United States. No decent person who has the means of procuring a comfortable passage for himself or family will venture on board one of these receptacles for filth and disease. He will seek for accommodation in some American vessel which will convey him to the United States, where he will be lost to his country for ever, while we shall be overwhelmed with as many emigrant paupers as the artful and unprincipled men who carry on this traffic can delude.

Your Committee therefore suggest the propriety of bringing this matter under the consideration of His Majesty's Government without loss of time, in the hope that those useful regulations may be revived, or that some legislative enactment may be resorted to, to prevent the recurrence of so alarming an evil.[1]

JAMES STEWART, BRENTON HALLIBURTON, S. B. ROBIE.

18

FINAL REPORT OF THE COMMISSIONERS FOR EMIGRATION TO LORD GODERICH

15 March 1832[2]

Colonial Office.

MY LORD,

We have the honour to enclose herewith the information which we have caused to be printed for the use of persons desirous to emigrate, or to assist others to emigrate, to the British colonies in North America. . . .

[1] As a result of such reports, and protests by shipowners alarmed at the effects of evil reports of the passage by emigrants, a new Passenger Act was passed in May 1828 (9 Geo. IV, cap. 21). Although more strict than that of 1827, it was a compromise and was quite inadequate. Todhunter considered that it would still permit such overcrowding as 'nothing in the annals of the slave trade could equal'. From the date of the Act, however, responsibility passed from the Customs and Treasury to the Colonial Office.

[2] *Parl. Papers*, 1831–2 (724), vol. xxxii, pp. 3–7. The Duke of Richmond, Henry Ellis, Viscount Howick, R. W. Hay, and Francis Thornbull Baring were appointed by the Colonial Office in June 1831 to supervise the giving of aid and advice to intending emigrants. Their appointment terminated in August 1832 and the Colonial Office undertook their work until J. D. Pinnock was made Agent-General for Emigration in 1834.

[The Commissioners consider it important that emigrants should be provided with accurate information as a protection against misrepresentations by unscrupulous agents.]

In the despatches which your Lordship has addressed to the Governors both of the Australian and the North American colonies, and which you have caused to be laid before us for our information, you have fully stated the grounds on which His Majesty's Government has decided no longer to permit the disposal of land in these colonies except by sale. As far as we can judge, experience has shown that the most prudent course for working people in these countries is, to commence by earning their livelihood in the occupation to which they have been accustomed at home, and afterwards to acquire land, should that be their object, by purchasing it out of their savings from the high wages paid in these colonies. This course, which is rendered easy in Canada by the moderate prices fixed on land, has already been actually followed by those emigrants who have not been tempted to a deviation from it by the facility with which the Crown lands have been given away; and we are satisfied that it is by such a process, effecting a gradual, but not a premature, conversion of labourers into landowners, that we may most confidently expect to see the continual reproduction of new means of employment for successive bodies of emigrants from this country. . . .

There was, however, one important part of your Lordship's instructions in which you observed, that, in the case of parties raising the necessary funds for their conveyance to the colonies, we might undertake the application of those funds without subjecting the individuals to the necessity of making their own agreements for passage. Although, from the scanty production of funds by individuals, we have not yet availed ourselves of the extensive powers thus given us by our instructions, we shall take this opportunity to recapitulate, generally, the course of our proceedings up to the present period.

At the time when the Commission was appointed in June, the best season for emigration to North America had elapsed, and we resolved that our immediate attention should be turned to New South Wales and Van Diemen's Land, the colonies to which emigrants can most advantageously proceed during the autumn and winter. The Australian colonies, chiefly, no doubt, from their distance, had not been resorted to to the extent which might have been anticipated from their fine climate and their many natural resources. Previously to our appointment, shipowners had not even thought it worth while to provide accommodation for a poorer class of emigrants; and the lowest price of passage, being that for what are termed steerage passengers, ranged from 30*l.* to 40*l.* Under these circumstances, our first intention was to undertake the application of any funds which might be placed at our disposal, in order that, by hiring vessels for the conveyance of passengers upon a more economical scale than heretofore, we might

render the Australian colonies less inaccessible to persons of the working classes. But the notice given by us, in pursuance of this view, had the effect of directing the attention of shipowners to the subject; and the result has been, that, without any further intervention on our part, a systematic and entirely new method has been introduced of conveying emigrants to New South Wales and Van Diemen's Land. Vessels are despatched from Liverpool every month, and others are sent from Dublin and from London, which are fitted up with a view to the accommodation of emigrants belonging to the working classes. Certain days are stated, after which, whether the vessel sails or not, the passengers are received on board, and victualled. The charge for the passage is from 18*l.* to 20*l.* for adults, and half price for children. Such is the regular and well-defined practice which has been lately commenced, and which cannot fail materially to increase the amount of emigration to the Australian colonies. Considering, therefore, the reduction which has taken place in the price of passage, and adverting also to the disputes and discontent which might attend the conveyance of large numbers of persons who would provide for their own expenses, and would only be indebted to Government for a gratuitous agency in the engagement of their passages, we doubt the expediency of offering to relieve individuals from the necessity of acting for themselves in this matter.

Besides the reduction which has been effected in the price of passage, your Lordship is aware of the measure which occurred to us for diminishing, by means of loans to industrious mechanics, the difficulty involved in the expensive voyage to Australia. It is sufficiently explained in our Report of the 24th of September last,[1] that we look upon this measure as an experiment susceptible of very wide extension, and that, both with regard to the amount of the loan, and to the class of persons to whom it is rendered applicable, we conceive that the limits by which it is now bounded may, at some future time, be removed; for, should the advances made in this first trial of the plan be duly repaid, it will become a matter well deserving of consideration, whether loans might not be allowed to agricultural labourers as well as to mechanics, and be at the same time raised to such an amount as would render it more easy for both classes to procure the supplementary funds necessary to complete the price of their passage. It is also by no means improbable that, if this attempt should succeed, private individuals and charitable associations would grant funds upon similar conditions. Persons desirous to emigrate might likewise materially aid each other in the same manner; for several individuals, by uniting their resources, could enable one of their number to proceed to the colony, and when that person should have repaid the amount lent to him, another could follow; and thus, by succession, the whole body would effect their emigration. With respect to the present operation of the measure, we must observe, that there has

[1] Papers presented 13 October 1831, No. 328.

scarcely yet been time for the intentions of Government to become very generally known. The following is an account of the number of families assisted, and of the amount of aid allowed, during each month from the first promulgation of the plan.

	No. of Families.	Amount. £
1st Month	12	195
2d ditto	13	246
3d ditto	34	649
4th ditto	44	871
	103	£1,961

All these parties have actually sailed. A fifth month has not yet elapsed; but the number of applicants daily becomes greater, and so soon as the plan shall acquire additional publicity, the opportunities of dispensing the loan with advantage will doubtless rapidly increase both in frequency and importance.

In recapitulating the circumstances which have this year given a new spring to emigration to Australia, we must not omit to observe, that from the course of our correspondence we have reason to hope that the indifference, and the want of information, which have hitherto existed regarding these colonies, are beginning to disappear. When, therefore, besides the regularity with which the conveyance of passengers to New South Wales and Van Diemen's Land seems likely to be effected, we consider the eagerness with which knowledge respecting these colonies is now sought for by people of the working classes, we are persuaded that a great step in the promotion of emigration has been gained. And whatever may be the amount of immediate relief to this country, we cannot but feel gratified at having directed additional attention to colonies possessing within themselves such capabilities of improvement, and which may at some future time become a large field for emigration from Great Britain. . . .

We now proceed to offer some remarks on emigration to the North American colonies. The number of persons who proceeded to Canada in the first year after the peace is said to have been not more than 1,250. But in the 10 succeeding years, up to 1826, the average number exceeded annually 9,000; and the numbers which have passed through Quebec in each year since 1826 are reported as follows:

1827	15,862
1828	12,697
1829	15,945
1830	28,100
1831	50,254

The emigration of such large bodies has not been carried on for a series of years without creating a competition, and an experience sufficient to establish the modes of conveyance best adapted to the

circumstances of those by whom they are to be used. And when it is seen in the Statement published by us, that the passage from Dublin to Quebec, a distance of nearly 3,000 miles, is likely to be provided during one part of this year for a charge of 30*s*., we think it will hardly be supposed that any further reduction can be made in the cost of conveyance.

With respect to the frauds practised on emigrants, we deeply regret the hardships to which they have too frequently been exposed, either by their own improvidence, or by the misconduct of those from whom they have engaged their passages; and we have inserted in our Notice a caution which we hope will be useful on this subject. Much good, we are persuaded, might be accomplished by a general adherence to the course we have recommended, of naming in the agreement for passage a particular day after which, whether the ship should sail or not, passengers should have a right to be received on board and victualled. We trust also that advantage will be derived from the vigilance lately excited in the colonies, and from the desire of the colonial authorities to concert measures with those at home for the more effectual enforcement of the law which has for its object the protection of passengers to North America. But whatever benefit may arise to emigrants from these sources, we think that their comfort during the voyage must continue to depend chiefly on their own prudence, or that of the individuals who act on their behalf.

Hitherto, as your Lordship is aware, emigration has gone on with very little interference on the part of Government. Of the numbers who have settled in the North American colonies since the termination of the war, only about 3,000 in the years 1820 and 1821, about 570 in the year 1823, and 2,020 in the year 1825, have been directly assisted by the public. These large parties of emigrants were settled almost entirely by aid allowed from Government, and the result, so far as the happiness of the settlers is concerned, has been most gratifying. But as a means of relief to the mother country, the expense of such undertakings plainly rendered them unavailable, since, however beneficial to the parties actually removed, the measure was far too costly to be persevered in to any useful extent. The remainder of the settlers who have gone out during the last 16 years have established themselves in the colonies (as we have stated our belief that emigrants may continue to do) by their own means, or by the assistance of private individuals. . . .

In the Reports on which the preceding observations are founded, enough is shown to prove that very little superintendence is now requisite at home, in order to insure the prosperity of persons who emigrate in such circumstances of health and age as qualify them to earn their livelihood by industry. We may, however, be allowed to say, that the proceedings of the Commission in execution of your Lordship's instructions have tended to diffuse correct information

respecting the Australian and the North American colonies; to facilitate and cheapen the means of conveyance to the former colonies, and, generally, to place those individuals amongst the working classes, who may be disposed to emigrate, in a situation more readily and advantageously to carry their intentions into effect. . . .

19

LORD HOWICK TO HENRY LAMBERT

18 April 1832[1]

SIR,

With reference to the communication which you addressed to me on the 10 inst., and which I have submitted to Viscount Goderich, relative to the impediments which have lately been thrown in the way of persons wishing to emigrate to Canada, I am desired by his Lordship to acquaint you that the provincial acts imposing a duty on passengers appears to have been passed with a view not of discouraging emigration but of conducing to its safe and beneficial continuance. Great inconvenience has been experienced at the principal colonial ports from the unprovided state in which emigrants had landed and from their consequent dependence upon public charity until they could find employment for their labour. In the transit also of such great numbers accidents and deaths happen by which disabled persons, widows and orphans are thrown upon the benevolent institutions of the colonial towns. To meet the expenses arising from these causes and to support hospitals for the reception of emigrants arriving in bad health seem to be one chief object of the acts recently passed in Canada and Nova Scotia. Another object is to check the abuses which have been practised in the conveyance of emigrants to the North American colonies. It is evident that considerable means of restraining such abuses are furnished by the power vested in His Majesty's Government of causing the duty to be doubled on vessels which shall convey passengers departing without its sanction. Unless, however, in peculiar cases, where sufficient reason shall be reported to His Majesty's Government for withholding the usual permission all vessels conveying passengers to the North American colonies and duly complying with the enactments of the Passengers Act, will be furnished with certificates exempting them from the payment of extra

[1] C.O. 43/76, pp. 44–46. A circular dispatch of December 1831 recommended a duty on emigrants arriving and a double tax on those embarked without sanction. Lower Canada, Nova Scotia, and New Brunswick complied. Henry Grey, *Viscount Howick*, third Earl Grey, was Parliamentary Under-Secretary for the Colonies in his father's administration from 1830 to 1833. He was later a most notable Colonial Secretary in Russell's administration, 1846 to 1852. *Henry Lambert* had been elected member of Parliament for the county of Wexford in 1831. He was a reformer, anxious to see Ireland treated on a basis of equality with England and prepared to urge the repeal of the Union if Irish grievances were not remedied.

duty in Canada and Nova Scotia. The officers of Customs at the several ports of the United Kingdom have received the necessary instructions on this subject and public notice will be given should it at any future time be found expedient to vary the course of proceeding now adopted. . . .

20

R. W. HAY TO LIEUTENANT ROBERT LOW

22 May 1834[1]

SIR,

In reply to your letter of the 10th instant, I am directed by Mr. Secretary Stanley to again remind you that, in the absence of all legal power to detain ships, not absolutely infringing on the provisions of the Passengers Act, however objectionable may be the state in which they may be proceeding to sea, it would be desirable for you to confine yourself to remonstrance only with the owners of such ships; as a more violent mode of proceeding tends merely to show the non-existence of a power to compel offending parties to alter their conduct.

I enclose you the names of the officers who have been appointed Emigration Agents, together with the ports to which they are respectively attached; but as letters to them will not be delivered free of postage, I would suggest the propriety of communicating with them through the medium of this office. . . .

B. CONVICTS AND COLONISTS IN AUSTRALASIA

21

JOSEPH BANKS: EVIDENCE BEFORE A COMMITTEE OF THE HOUSE OF COMMONS ON TRANSPORTATION, 1 April 1779[2]

Joseph Banks, Esquire, being requested, in case it should be thought expedient to establish in a colony of convicted felons in any distant

[1] C.O. 358/8, pp. 16–18. *Lieutenant Low*, R.N., was appointed Government Emigration Agent in Liverpool in 1833 to enforce the provisions of the Passenger Act, but found his powers inadequate. Even after a further Passenger Act (5 & 6 Will. IV, cap. 53), two of the most notorious Atlantic crossings were made from Liverpool in 1836 by the *Kingston* and the *Celia*; and 16¼ per cent. of emigrants leaving the British Isles died on the North Atlantic passage in the black year of 1847. (See also *Parl. Papers*, 1851 (198), vol. xl, e.g. evidence of Vere Foster, p. 434.)

[2] *Journals of the House of Commons*, vol. xxxvii, p. 311. *Joseph Banks*, President of the Royal Society, had accompanied Captain Cook as naturalist on his voyage in 1768–71. This committee was appointed to consider persons convicted of felonies and misdemeanours in prison and problems of their maintenance and employment. John Howard had given evidence the same day.

part of the globe, from whence their escape might be difficult, and where, from the fertility of the soil, they might be enabled to maintain themselves, after the first year, with little or no aid from the mother country, to give his opinion what place would be most eligible for such settlement? informed your Committee *that* the place which appeared to him best adapted for such a purpose, was Botany Bay, on the coast of New Holland, in the Indian Ocean, which was about seven months voyage from England; that he apprehended there would be little probability of any opposition from the natives, as, during his stay there, in the year 1770, he saw very few, and did not think there were above fifty in all the neighbourhood, and had reason to believe the country was very thinly peopled; those he saw were naked, treacherous, and armed with lances, but extremely cowardly, and constantly retired from our people when they made the least appearance of resistance: he was in this bay in the end of April and beginning of May 1770, when the weather was mild and moderate; that the climate, he apprehended, was similar to that about Toulouse, in the south of France, having found the Southern Hemisphere colder than the Northern, in such proportion, that any given climate in the Southern answered to one in the Northern about ten degrees nearer to the Pole; the proportion of rich soil was small in comparison to the barren, but sufficient to support a very large number of people; there were no tame animals, and he saw no wild ones during his stay of ten days, but he observed the dung of what were called kangourous, which were about the size of a middling sheep, but very swift, and difficult to catch; some of those animals he saw in another part of the bay, upon the same continent; there were no beasts of prey, and he did not doubt but our oxen and sheep, if carried there, would thrive and increase; there was great plenty of fish, he took a large quantity by hauling the seine, and struck several stingrays, a kind of skate, all very large; one weighed 336 pounds. The grass was long and luxuriant, and there were some eatable vegetables, particularly a sort of wild spinage; the country was well supplied with water; there was abundance of timber and fuel, sufficient for any number of buildings, which might be found necessary. Being asked, how a colony of that nature could be subsisted in the beginning of their establishment? he answered, they must certainly be furnished, at landing, with a full year's allowance of victuals, raiment, and drink; with all kinds of tools for labouring the earth, and building houses; with black cattle, sheep, hogs, and poultry; with seeds of all kinds of European corn and pulse; with garden seeds; with arms and ammunition for their defence; and they should likewise have small boats, nets, and fishing-tackle; all of which, except arms and ammunition, might be purchased at the Cape of Good Hope; and that afterwards, with a moderate portion of industry, they might, undoubtedly, maintain themselves without any assistance from England. He recommended sending a large

number of persons, two or three hundred at least; their escape would be very difficult, as the country was distant from any part of the globe inhabited by Europeans. And being asked, whether he conceived the mother country was likely to reap any benefit from a colony established in Botany Bay? he replied, if the people formed among themselves a Civil Government, they would necessarily increase, and find occasion for many European commodities; and it was not to be doubted, that a tract of land such as New Holland, which was larger than the whole of Europe, would furnish matter of advantageous return.

22

JAMES MARIA MATRA: A PROPOSAL FOR ESTABLISHING A SETTLEMENT IN NEW SOUTH WALES

23 August 1783[1]

I am going to offer an object to the consideration of our Government [that] may in time atone for the loss of our American colonies.

By the discoveries and enterprise of our officers, many new countries have been found which know no sovereign, and that hold out the most enticing allurements to European adventurers. None are more inviting than New South Wales. . . .

[He refers to Captain Cook's exploration of the east coast and emphasizes the fertility of its soil for sugar, cotton, tobacco, &c.]

I must not omit the mention of a very important article, which may be obtained in any quantity, if this settlement be made the proper use of, which would be of very considerable consequence, both among the necessaries and conveniences of life. I mean the New Zealand hemp or flax-plant, an object equally of curiosity and utility. By proper operations it would serve the various purposes of hemp, flax, and silk, and it is more easily manufactured than any one of them. In naval equipments it would be of the greatest importance; a cable of the circumference of ten inches would be equal in strength to one of eighteen inches made of European hemp. Our manufacturers are of opinion that canvas made of it would be superior in strength and beauty to any canvas of our own country. . . .

This country may afford an asylum to those unfortunate American Loyalists to whom Great Britain is bound by every tie of honour and gratitude to protect and support, where they may repair their broken fortunes, and again enjoy their former domestic felicity. . . . Sir Joseph

[1] *Hist. Records of N.S.W.*, vol. i, pt. ii, pp. 1–6. *J. M. Matra*, a native of New York, had been a midshipman on H.M.S. *Endeavour* with Cook and Banks. He was Consul in Teneriffe in 1772, and had tried for many years to claim a share of the grants to Loyalists on consideration of his lands in New York Colony. He made this suggestion for a Loyalist colony at Botany Bay to the Fox–North administration.

Banks is of opinion that we may draw any number of useful inhabitants from China, agreeably to an invariable custom of the Dutch in forming or recruiting their eastern settlements. . . .

That the Ministry may be convinced that this is not a vain, idle scheme, taken up without due attention and consideration, they may be assured that the matter has been seriously considered by some of the most intelligent and candid Americans, who all agree that, under the patronage and protection of Government, it offers the most favourable prospects that have yet occurred to better the fortunes and to promote the happiness of their fellow-sufferers and countrymen.

Sir Joseph Banks highly approves of the settlement, and is very ready to give his opinion of it, either to His Majesty's Ministry or others, whenever they may please to require it.

Should this settlement be made, we may enter into a commerce that would render our trade to China, hitherto extremely against us, very favourable. The Aleutian and Foxes Islands, situated between Asia and America, which abound with the choicest furs, lie nearly north of New South Wales. It is from these islands the Russians get the most and best of their furs, with which they carry on a very lucrative trade by land with the Chinese. Our ships that sailed under the command of Captain Cook and Clerke stopped at some of them, and the skins which they procured then sold in China at 400 hard dollars each, though for the few they brought home, of the same quality, they only received about ten pounds each. As our situation in New South Wales would enable us to carry on this trade with the utmost facility, we should be no longer under the necessity of sending such immense quantities of silver for the different articles we import from the Chinese Empire.

There is also a prospect of considerably extending our woollen trade. We know that large quantities of woollen cloth are smuggled to Japan by the Russians, which, as it is taken by land carriage from St. Petersburg to Kamschatka, and then to the islands by a very precarious navigation in boats, must be extremely dear. The Japanese, however, go in their junks to the islands and purchase great quantities of it.

The peninsula of Korea, a kingdom tributary to the Chinese, and unvisited by Europeans, has its supply at second-hand chiefly from the Japanese. No ship has ever attempted this commerce, excepting once or twice that the Spaniards ventured thither from their American dominions; but as the inhabitants of New Spain are but indifferent navigators for the high, cold latitudes, they could not oftener repeat the enterprise. . . .

[He suggests that New Zealand timber will prove very valuable for the use of the Navy.]

By the preliminary articles of peace with Holland we are entitled to a free navigation in the Molucca Seas. Without a settlement in the

neighbourhood, the concession is useless; for the Dutch have an agent almost on every island in those seas. If we have a settlement, it is unnecessary; for as spices are the only articles we could expect by it, it is probable we should stand in no need of their indulgence, for as part of New South Wales lies in the same latitude with the Moluccas, and is even very close to them, there is every reason to suppose that what nature has so bountifully bestowed on the small islands may also be found on the larger. But if, contrary to analogy, it should not be so, the defect is easily supplied, for, as the seeds are procured without difficulty, any quantity may speedily be cultivated.

To those who are alarmed at the idea of weakening the mother country by opening a channel for emigration, I must answer that it is more profitable that a part of our countrymen should go to a new abode, where they may be useful to us, than to the American States. If we cannot keep our subjects at home, it is sound policy to point out a road by following of which they may add to the national strength.

The place which New South Wales holds on our globe might give it a very commanding influence in the policy of Europe. If a colony from Britain was established in that large tract of country, and if we were at war with Holland or Spain, we might very powerfully annoy either state from our new settlement. We might, with a safe and expeditious voyage, make naval incursions on Java and the other Dutch settlements; and we might with equal facility invade the coast of Spanish America, and intercept the Manilla ships, laden with the treasures of the west. This check which New South Wales would be in time of war on both those powers makes it a very important object when we view it in the chart of the world with a political eye. . . .

23

SIR GEORGE YOUNG: A PLAN FOR SETTLING NEW SOUTH WALES, January 1785[1]

. . . The American Loyalists would here find a fertile, healthy soil, far preferable to their own, and well worthy their industry, where, with a very small part of the expense the Crown must necessarily be at for their support, they may be established now comfortably, and with a greater prospect of success than in any other place hitherto pointed out for them.

The very heavy expense Government is annually put to for transporting and otherwise punishing the felons, together with the facility

[1] *H.R.N.S.W.*, vol. i, pt. ii, p. 12. Enclosed in R. P. Arden (Attorney-General) to Lord Sydney, 13 January 1785. *Admiral Sir George Young* had served with the East India Company, and in Canada and in the West Indies. He supported Matra's scheme, suggesting that it might be a solution of the convict, as well as the Loyalist, problem. He was a promoter of the Sierra Leone Company.

of their return, are evils long and much lamented. Here is an asylum open that will considerably reduce the first, and for ever prevent the latter. . . .

24

EVAN NEPEAN: EVIDENCE BEFORE A COMMITTEE OF THE HOUSE OF COMMONS ON TRANSPORTATION, 9 May 1785[1]

. . . Mr. Nepean being further examined,[2] acquainted the Committee that these convicts consisted of five different classes;—1st. Persons sentenced originally to America;—2dly. Prisoners who have been capitally convicted, and respited on condition of transportation to America;—3dly. Persons who have been sentenced to places beyond the seas generally, the place of transportation being left for the King to fix by a subsequent Order of Council;—that the 4th class consists of those who have been sentenced specially to Africa;—and the 5th, of persons capitally convicted, and who have accepted of pardon, on the condition of transportation to Africa.—Mr. Nepean further acquainted the Committee that a plan has been suggested, for the transportation of convicts to the island of Lemane, about 400 miles up the River Gambia—That many other places have been submitted to the Secretary of State, but in his opinion this is the plan which Government will prefer, the African Company having refused to take any more into their forts and settlements; and that he knows of no other regular plan offered, with regard to Africa. . . . Mr. Nepean further added that the reason why the persons first named are to be sent to Africa, is, that they are notorious felons, who are every day expected to break prison, some of them having already made attempts to do so, and are a class of people too dangerous to remain in this country; and it is thought there is no proper place in America to transport them to, at least within the King's dominions.—Being further examined, whether the plan respecting the island of Lemane is finally determined on, Mr. Nepean acquainted the Committee that it is under the contemplation of Government, and preferred to every other plan, though not finally resolved on.—And he further added that if the season was not so far advanced, the plan would have been determined on, and carried into execution.—Being further examined, as to particulars, he said, that 200 were to be sent to Lemane, not in a King's vessel, but in a transport or two, chartered for that purpose, under the direction of Mr. Calvert—That the transports could go up the Gambia,

[1] *Journals of the House of Commons*, vol. xl, pp. 955–6. The Committee under Lord Beauchamp had been appointed to report on measures necessary to make the 1784 Act on transportation effective.

[2] He had reported the hulks to be overcrowded.

within 60 miles of the island, where they were to be left, with such a proportion of provisions as might be necessary for their use till they could raise stock for themselves.—He added that these persons were to be supplied with framing for their habitations, with proper tools to construct them, as also for cultivating the land; with merchandize to provide stock, and grain for sowing; and likewise with a medicine chest—And he had heard that among the convicts there were some medical persons—But he added, that after the stock had been purchased for them, and they were established on the island, the settlers were to be left to themselves. . . .

[Unsuccessful attempts had been made to land convicts in the American States and in Honduras.]

Mr. Nepean, being asked whether there is any plan for sending convicts to Cape Breton, or any of the British settlements in America? he said that there have been strong representations made against it from Nova Scotia—that he believes there are very few settlers in Cape Breton, and that he has heard of no plan for sending them to Canada.

25

REPORT FROM A SELECT COMMITTEE OF THE HOUSE OF COMMONS ON TRANSPORTATION

28 July 1785[1]

The Lord Beauchamp reported . . .: That it appears to the Committee, that the extraordinary fullness of the gaols makes a separation of offenders impracticable, and that by constant intercourse they corrupt and confirm each other in every practice of villainy. . . .

The Committee further observe that these mischiefs are in great measure to be attributed to the want of a proper place for the transportation of criminals—That the old system of transporting to America, answered every good purpose which could be expected from it—That it tended directly to reclaim the objects on which it was inflicted, and to render them good citizens—That the climate being temperate, and the means of gaining a livelihood easy, it was safe to entrust country magistrates with the discretionary power of inflicting it—That the operation of it was thus universally diffused over the whole island, as well as this metropolis—That it tended to break, in their infancy, those gangs and combinations which have since proved so injurious to the community—That it was not attended with much expense to the public, the convicts being carried out in vessels employed in the Jamaica or tobacco trade. . . .

Your Committee further observe that if a settlement be made for

[1] *Journals of the House of Commons*, vol. xl, pp. 1161–4.

the purpose of removing our convicts, the success of the experiment will depend on a variety of circumstances—That the climate and situation ought to be healthy; as, although many of them have forfeited their lives by their original sentences, it is implied, by His Majesty's conditional pardon, that their transportation shall not expose them to any imminent danger of their lives—That unless they are removed to a considerable distance, from whence the means of returning may be rendered difficult, the end of their transportation will be defeated—That, subject to this caution, a coast situation is preferable to an inland one, for the convenience of supplying the settlers until they are able to provide for their own subsistence, as likewise to furnish them an asylum, if any natives should be disposed to annoy them.

But your Committee beg to submit, it was their decided opinion, that the idea of composing an entire colony of male and female convicts, without any other government or control but what they may from necessity be led to establish for themselves, can answer no good or rational purpose—That such an experiment has never been made in the history of mankind—That the outcasts of an old society will not serve as the sole foundation of a new one, which cannot exist without justice, without order, and without subordination, to which the objects in question must of necessity be strangers—That confusion and bloodshed would probably soon take place among them; and that no spot, however distant, can be pointed out by the Committee, in which the mischiefs of realizing so dangerous a project might not be felt on the trade and navigation of these kingdoms.

The Committee, however, are of opinion, that should His Majesty think fit to establish a new settlement for enlarging the commerce of His subjects, the labour of these convicts may be employed to the most useful purposes—That there are commonly both husbandmen and artificers among them, as well as men of talents and education—That the enterprising disposition which many of them have shown, would, under a strict control, peculiarly fit them for the defence of a new settlement—That an aversion to labour, and the inequality of fortunes, which stimulate men at home to the commission of crimes, could, in such a state of things, have no operation—That the ordinary seductions would be beyond their reach, and consequently they would remain honest, for want of a temptation to be otherwise—That having no hope of returning, they would consider their own happiness as involved in the prosperity of the settlement, and act accordingly—That under judicious management, and the hope of being restored to freedom, the most refractory might gradually be reformed; and, that in the mean time, the better part of them might be rendered answerable for the conduct of the remainder, till the desire of acquiring the confidence of their employers led them insensibly to deserve it—That no returns of persons under sentence of transportation, except from

the home counties, being before the Committee, it is not in their power to state the amount of them; but, from every circumstance, they are led to suppose it cannot be less than fifteen hundred—That every session adds much to that number—That it is therefore necessary to revive the punishment of transportation, on a considerable scale, if that mode of punishment is solely and exclusively resorted to, to prevent the further increase in our prisons—That, consequently, the expense must be great, though perhaps less in its consequences than the establishment of the hulks, which, exclusive of the mischiefs before stated, are, in all respects, a dead charge to the public, except for the small return made by their work at Woolwich Warren; and the Committee hope it will not be impossible to fix on such spots for the transportation of criminals as may, by the commercial and political advantages to be derived from them, indemnify the public for the original charge. . . .

[They turn their attention to Africa, where the most suitable tract for settlement would seem to be on the south-west coast near Das Voltas.]

The Committee further observe that many difficulties will be obviated, if the information which they have received proves true to a considerable extent—That many American families are desirous of settling in any healthy part of the globe where they can rely on the protection of British government; and that they will readily resort to the coast in question, under proper encouragement to do so—That settlers of this description will be very instrumental in keeping the convicts in due subordination; and that their labour be assigned over to them, under proper restrictions—That if the colony should flourish and become numerous, it may prove the means of annually relieving the gaols of this kingdom; and that it is desirable to divert the spirit of emigration, which leads so many British subjects annually to the United States, to countries which are still subject to the Crown of Great Britain—That all the discoveries as well as great commercial establishments now existing in distant parts of the globe, have been owing to the enterprise and persevering exertions of individuals, who, at great personal risks, frequent losses, and in some cases total ruin, have opened the way to the greatest national advantages—That the first settlements in North America were undertaken under every circumstance of an inhospitable climate and an ungrateful soil, as well as the fiercest attacks from the natives; yet, in the space of 200 years, a new world has sprung up, under many untoward circumstances to which the undertaking in question does not appear to be exposed.

On considering the whole of the subject, the Committee are of opinion, that if the legislature persists in the system of transporting criminals to Africa, the scheme now suggested is the only one which appears to them of a practicable nature; yet, as it will not answer the purpose of annual transportation unless it becomes a numerous and flourishing colony, which will require for many years the fostering

hand of the Mother country, the Committee recommend the adoption of it, so far only as the commercial and political benefits of a settlement on the south west coast of Africa may be deemed of sufficient consequence to warrant the expense inseparable from such an undertaking, at the same time that it restores energy to the execution of the law, and contributes to the interior police of this Kingdom.

26

LORD SYDNEY: THE HEADS OF A PLAN

18 August 1786[1]

Heads of a plan for effectually disposing of convicts, and rendering their transportation reciprocally beneficial both to themselves and to the State, by the establishment of a colony in New South Wales, a country which, by the fertility and salubrity of the climate, connected with the remoteness of its situation (from whence it is hardly possible for persons to return without permission), seems peculiarly adapted to answer the views of Government with respect to the providing a remedy for the evils likely to result from the late alarming and numerous increase of felons in this country, and more particularly in the metropolis. . . .

[He makes detailed suggestions for transport, crews, provisions, &c., the cost of which would be small compared with the great relief to the country.]

It may not be amiss to remark in favour of this plan that considerable advantage will arise from the cultivation of the New Zealand hemp or flax-plant in the new intended settlement, the supply of which would be of great consequence to us as a naval power, as our manufacturers are of opinion that canvas made of it would be superior in strength and beauty to any canvas made of the European material, and that a cable of the circumference of ten inches made from the former would be superior in strength to one of eighteen inches made of the latter. The threads or filaments of this New Zealand plant are formed by nature with the most exquisite delicacy, and may be so minutely divided as to be manufactured into the finest linens.

Most of the Asiatic productions may also without doubt be cultivated in the new settlement, and in a few years may render our recourse to our European neighbours for those productions unnecessary.

It may also be proper to attend to the possibility of procuring from New Zealand any quantity of masts and ship timber for the use of our fleets in India, as the distance between the two countries is not greater than between Great Britain and America. It grows close to the water's edge, is of size and quality superior to any hitherto known, and may be obtained without difficulty. . . .

[1] *Hist. Records of New Zealand*, vol. i, Wellington 1908, pp. 53–55, and *H.R.N.S.W.*, vol. i, pt. ii, pp. 17–19.

27

CAPTAIN ARTHUR PHILLIP TO LORD SYDNEY, 28 February 1787[1]

. . . As I would not wish convicts to lay the foundations of an empire, I think they should ever remain separated from the garrison, and other settlers that may come from Europe, and not be allowed to mix with them, even after the 7 or 14 years for which they are transported may be expired.

The laws of this country will, of course, be introduced in [New] South Wales, and there is one that I would wish to take place from the moment His Majesty's forces take possession of the country: That there can be no slavery in a free land, and consequently no slaves. . . .

28

NEW SOUTH WALES: INSTRUCTIONS FOR GOVERNOR PHILLIP, 25 April 1787[2]

. . . And whereas we have by Our Commission, bearing date [2nd April 1787], given and granted unto you full power and authority to emancipate and discharge from their servitude any of the convicts under your superintendence[3] who shall, from their good conduct and a disposition to industry, be deserving of favour: 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, in such proportions and under such conditions and acknowledgments as shall hereafter be specified, vizt:—To every male shall be granted 30 acres of land, and in case he shall be married, 20 acres more; and for every child who may be with them at the settlement at the time of making the said grant, a further quantity of ten acres, free of all fees, taxes, quit rents, or other acknowledgments 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

[1] *H.R.N.S.W.*, vol. i, pt. ii, p. 53.

[2] C.O. 202/5, ff. 28–38. Printed in *H.R.N.S.W.*, vol. i, pt. ii, pp. 85–91. *Captain Arthur Phillip* was probably selected because he had some knowledge of farming. The choice was certainly an admirable one. He returned to England in 1793, but continued to take a keen interest in New South Wales.

[3] The initial consignment for Botany Bay consisted of 600 male and 180 female convicts.

growing, or to grow hereafter, upon the said land which may be fit for naval purposes, and an annual quit rent of —— after the expiration of the term or time before mentioned. You will cause copies of such grants as may be passed to be preserved, and make a regular return of the said grants to the Commissioners of Our Treasury and the Lords of the Committee of Our Privy Council for Trade and Plantations.

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 proceeding 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. . . .

[On report from the Governor, further instructions will be sent to encourage the settlement of military personnel.]

29

GOVERNOR PHILLIP TO LORD SYDNEY

30 October 1788[1]

. . . Your Lordship will see by my former letters the little progress we have been able to make in cultivating the lands, and, I presume, the necessity of a few proper persons being sent out to superintend the convicts, as well as settlers, who have been used to cultivation; for at present this settlement only affords one person[2] that I can employ in cultivating the lands on the public account. Most of the officers have cultivated a little ground, but it is merely for their own conveniency, and none more than a single acre, except the Lieutenant-Governor, who has about three acres. I have sixteen at a small farm on the public account.

It must, my Lord, be settlers, with the assistance of the convicts, that will put this country in a situation for supporting its inhabitants. . . .

[1] C.O. 201/3. Printed in *H.R.A.*, Series I, vol. i (1914), p. 95.
[2] Henry Dodd, who organized cultivation at Farm Cove.

30

ADDITIONAL INSTRUCTIONS TO GOVERNOR PHILLIP CONCERNING LAND GRANTS

20 August 1789[1]

Whereas it has been represented unto Us that assurances were given to the non-commission officers and men belonging to the detachment of Our marine forces serving on the continent of New South Wales that such of the said non-commission officers and men as shall have behaved well shall be allowed to quit Our service on their return to England, or be discharged abroad upon the relief (designed to take place at the expiration of three years after their landing) and be permitted to settle in that country. And whereas it is probable that in consequence of that engagement some of the said non-commission officers and men will be desirous of continuing in that settlement or upon the islands comprised within your government; and as persons of that description will be of great utility in the new settlements, not only for the purposes of protection and defence, but for the cultivation of the land: We have thought it advisable that every reasonable encouragement should be held out to them to induce them to be aiding in such salutary purposes. It is therefore Our royal will and pleasure that you do issue your warrant to the Surveyor-General to survey and allot to such of the non-commission officers and men as shall be disposed to become settlers within your government, on their desiring the same, the proportions of land hereinafter mentioned, subject, however, to the following conditions and regulations:—

To every non-commission officer one hundred acres, and to every private man fifty acres, over and above the quantity directed by Our General Instructions to you to be granted to such convicts as may hereafter be emancipated or discharged from their servitude, free of all fees, taxes, quit rents, and other acknowledgments for the space of ten years; but after the expiration of that time to be liable to an annual quit rent of one shilling for every fifty[2] acres. . . .

And whereas from the disposition of many people to emigrate from this country there is a great probability that some of them may be desirous of becoming settlers in New South Wales or the said islands dependent thereupon: it is also Our will and pleasure that in case persons of that description should arrive from hence, or from any other part of Our dominions, and apply to you for grants of land, you do afford them every encouragement that can be given in that undertaking, without subjecting the public to expense; and that grants of land to such amount as you shall judge proper be made out for each

[1] C.O. 202/5, ff. 45–47. Printed in *H.R.A.*, Series I, vol. i, pp. 124–6.
[2] The *H.R.A.* version here has 10 acres.

person applying, not exceeding, however, in quantity the number of acres which you are hereby instructed to grant to the non-commission officers before mentioned, and subject to the same quit rents payable unto Us at the expiration of five years after the passing of such grant.

And whereas many of the non-commission officers and men of Our marine detachment, or other persons who may become settlers upon Our said continent of New South Wales, or the said islands dependent thereupon, may be desirous of availing themselves of the labour of part of the convicts now under your orders: it is Our will and pleasure, that in case there should be a prospect of their employing any of the said convicts to advantage, that you assign to each grantee the service of any number of them that you may judge sufficient to answer their purpose, on condition of their maintaining, feeding, and clothing such convicts in such manner as shall appear satisfactory to you, or to Our Governor of New South Wales for the time being. . . .

31

GOVERNOR PHILLIP TO W. W. GRENVILLE

17 June 1790[1]

. . . If the settlers first sent out are, in addition to their knowledge as farmers, possessed of some little property, will it not, sir, act as a security for their industry? Men able to support themselves, if intelligent and industrious, I think cannot fail; but if people come out (and such, I fear, may offer) who are indolent, and having nothing to lose want that spur to industry, they may become a burthen to the settlement, for they cannot be left to starve. Could an hundred of those who have been sent out to form this colony be removed it would be greatly benefitted, since they are as great burthen here as they would be to their parishes if in England. . . .

As I thought the first settlers sent out might require more encouragement than those who might come out hereafter, I proposed in my last despatches giving them a certain number of convicts for two years, and supporting them during that time at the expense of the Crown. The number intended to receive that indulgence may be limited to the first fifteen; but I think, sir, much will depend on ensuring the success of the first settlers sent out, and who I presume will be good farmers. The assistance proposed for them will certainly put them at their ease, if they are industrious men, and would not, I apprehend, be any great loss to the Crown. . . .

I am desirous of securing the success of the first settlers, but shall

[1] C.O. 201/5. Printed in *H.R.A.*, Series I, vol. i, pp. 180–3.

attend to the instructions I have received until I am honoured with an answer to my last despatches; and, as I have before observed, if settlers coming out bring people with them, and provisions to support those they bring, the assistance they will want may be given at a very small expense on the part of the Crown.

The river Hawkesbury will, I make no doubt, offer some desirable situations, and the great advantages of a navigable river are obvious; but before a settlement can be made there proper people to conduct it must be found, and we must be better acquainted with the country. Settlers may be sent there hereafter, but then we must have small craft to keep up communication. . . .

32

GOVERNOR LACHLAN MACQUARIE TO LORD LIVERPOOL, 17 November 1812[1]

. . . These two *Gentlemen Settlers*,[2] possessed (as they have stated and deposed) of large capital, and also furnished by the liberality of Government with an allowance of men, cattle and lands to an extent far beyond what any other persons have been ever indulged with, have certainly rendered all these advantages of the least possible benefit to the colony. Coming hither, as they did, in the professed character of *agriculturalists*, it would have been most naturally expected that they should have applied their personal and great acquired means of husbandry to the cultivation of grain on a proportionately enlarged scale, whereby the quantity required by Government would have been the more easily supplied, the general price in the market reduced, and the risk of scarcity materially guarded against. These, my Lord, are the consequences which might have been reasonably expected from the liberal means with which the Messrs. Blaxland have been furnished by this Government, and such, I believe, in strictness, they were bound to perform by a tie still stronger with them than a sense of the public good or of gratitude for the donations of Government.

Instead of contributing thus to the general welfare of the country, and setting a good example of an improved style of farming and agriculture, they have turned their whole attention to the lazy object of rearing of cattle. . . .

[1] C.O. 201/64. Printed in *H.R.A.*, Series I, vol. vii, pp. 559–60.

[2] Gregory and John Blaxland had been promised free passages and large grants of land in return for bringing capital into N.S.W. and becoming gentlemen settlers. They had taken part with Macarthur against Governor Bligh in 1808. In 1813 Gregory crossed the Blue Mountains.

[They have proved an expensive burden to the Government.]

I have dwelt on these circumstances and entered into this minuteness of detail in order to express my opinion the more fully and demonstratively to your Lordship that the encouragement of this description of persons called *Gentlemen Settlers* by extraordinary concessions in their favour has not heretofore contributed to the advancement of agriculture in this colony, whilst on the other hand, a heavy charge is thereby settled on the Government; and I am sorry to add, from experience, that the individuals thus benefitted, so far from showing a disposition to be grateful, are the most discontented, unreasonable and troublesome persons in the whole country. . . .

33

LORD BATHURST TO GOVERNOR MACQUARIE, 24 July 1816[1]

. . . I cannot avoid availing myself of this opportunity of impressing upon you in the strongest manner the necessity of accurately investigating upon the spot every branch both of the civil and military expenditure of the colony, with a view to its immediate reduction, and I have to desire that the result of this investigation may be as early as possible transmitted to me.

I have no doubt but that arrangements may be made, which will considerably diminish the heavy charge which is now annually incurred on account of New South Wales. I have to direct your attention particularly to the further reduction or discontinuance altogether for the future of the issue of rations to persons who may arrive in the colony as settlers. From the change which has lately taken place in the circumstances of the colony, encouragements of this description are no longer indispensable to its settlement and proper cultivation, and persons proceeding from this country have been uniformly cautioned against expecting any encouragement beyond a grant of land and some assistance of convict labour; but at all events the necessity of bringing the colonial expenses within some more reasonable limits is so paramount to every consideration of improvement, that I cannot hesitate in enforcing this measure upon you for immediate adoption, so far at least, as immediately to limit the issue of such rations to three instead of six months. . . .

[1] C.O. 202/8, f. 107.

34

LORD BATHURST TO LORD SIDMOUTH

23 April 1817[1]

[The success of the emancipists and the great increase of free settlement have transformed the character of the colony, so that it is now 'less fit for the object of its original institution'.]

... This continued influx must annually increase the difficulty, which has long began to be experienced of enforcing on the convicts such a strict discipline, both as to labour and deportment, as is essentially necessary to make transportation answer the purpose either of punishment or reform. The difficulty of finding regular employment for them has been such that it has been the practice of late years to grant tickets of leave, almost without exception, to those who had any prospect of obtaining a livelihood by their own exertions, and also to place a greater proportion as servants in the families of free settlers. In the former case, the convicts could be subjected to little more than a nominal restraint; and, in the latter, it is obvious that with less regular labour they must enjoy a freedom inconsistent with the object proposed in transporting them. Another evil resulting from the increased number is the great difficulty of subjecting any of the convicts to constant superintendence either during the hours of work or relaxation; and the necessity of leaving to a large proportion of them the care of providing themselves with their own lodging during the night from the inadequacy of public buildings, allotted to their reception, forms one of the most formidable objections to the present system. These evils, and more especially the last, have been recently brought under my consideration by various persons, and also by the Governor, who has coupled his representations with a recommendation that buildings should be erected for the reception of all the convicts; but the heavy expense of such a work, if it be intended that the new buildings should increase with the increasing number of persons to be lodged in them, has induced me to decline my sanction to this recommendation except to a very limited extent. . . . I propose (should it meet with your Lordship's concurrence) to recommend to His Royal Highness The Prince Regent the appointment of Commissioners, who shall forthwith proceed to the settlements, with full power to investigate all the complaints which have been made both with respect to the treatment of the convicts and the general administration of the Government, and to report to His Royal Highness the improvements and alterations of which the present system appears to them to be susceptible, and the charge which their adoption may bring upon the public. . . .

[1] *H.R.A.*, Series I, vol. x (1917), pp. 807–8. Henry Addington, first *Viscount Sidmouth*, had been Speaker of the House of Commons (1789–1801) and Prime Minister (1801–4). Since 1812 he had been Secretary of State for the Home Department and became identified with the repressive legislation of the post-war years.

(Enclosure.)

Number of convicts sent to New South Wales from England between January 1810, and January 1817, distinguishing the number in each year.

	Males	Females
1810	200	120
1811	400	99
1812	400	127
1813	500	119
1814	800	232
1815	880	101
1816	998	101
Total	4,178	899

N.B.—The above is exclusive of convicts sent from Ireland, which within the seven years have amounted to about 1,400 male and female.

35

GOVERNOR MACQUARIE TO LORD BATHURST

16 May 1818[1]

... As one certain means of greatly reducing the present very heavy expenses of this colony, I would strongly but respectfully recommend that no more *poor settlers* should be permitted to come out to this colony *for at least three years to come*; these poor settlers, that come out *as such*, are in fact the ruin of the country, their sole dependence being placed on what is termed here 'their indulgences' from Government; for the moment these indulgences cease, they contrive in some underhand way to sell their farms and take to lawless pursuits, keeping low public houses, or becoming itinerant merchants, hawkers and pedlars. If therefore, instead of allowing those poor men, decayed tradesmen and merchants and idle profligate adventurers to come out to this colony, as settlers, it were confined to respectable *monied men*, who could support themselves, set a good example of industry to the other colonists, and be able each to take six or eight male convict servants or labourers off the store, the expenses of the colony would very greatly be reduced thereby, and the colony itself would rapidly increase, not only in wealth, but in respectability and importance. I therefore most earnestly recommend to your Lordship to consider and adopt this plan, giving it a fair trial for at least three years from the 1st of January next, allowing no person whatsoever, after that date, to come out as a settler to this colony, who cannot produce a satisfactory proof that he not only possesses, but brings out with him, a clear capital of *at least five hundred* pounds to be paid out *in the*

[1] C.O. 201/90. Printed in *H.R.A.*, Series I, vol. ix (1917), pp. 797–8.

colony in his agricultural pursuits; at the same time fully apprizing such persons, as are thus permitted to come out *as settlers*, that they are not to expect or receive any further assistance or indulgence from Government, after their arrival here, excepting grants of land in proportion to their respective capitals with as many male convicts off the store as they can afford to maintain. If your Lordship should be pleased to approve of and adopt this suggestion, I am certain it cannot fail to have the desired effect of greatly lessening the public expenditure, and in the same degree of adding to the internal resources and respectability of the colony in every point of view. I find after eight years' experience that by far the best and most industrious class of *poor settlers* are the *emancipated convicts*; and as there will always be a sufficient number of them disposed to receive lands and settle permanently in the colony, there never can be any necessity, and I am sure no public advantage derived, for allowing any more poor settlers to come out at all, the country already swarming with such needy, idle and profligate people. . . .

36

REPORT OF THE COMMISSIONER OF INQUIRY ON THE COLONY OF NEW SOUTH WALES

19 June 1822[1]

. . . As I felt it to be a matter of importance to ascertain the quantity of land held by this description of persons [i.e. emancipists] in New South Wales; and as the form in which Governor Macquarie determined that the muster of 1820 should be taken by the magistrates did not afford the means of ascertaining this point, I requested the magistrates, in a circular letter that I addressed to them previous to the muster, to take an account of the quantity of land held by persons in each district, whose sentences had either expired or had been remitted. These returns were transmitted to me; and I find that out of 389,288 acres of land, granted and held in New South Wales, 22,238 acres were either granted to or held by the class of remitted convicts; and 48,906 by convicts whose sentences have expired.[2]

They constitute the middle and lower order of settlers in the colony, and having in general begun with very limited means, they have been obliged to depend solely upon the return of the produce of their land. It is through their means, therefore, that the greatest quantity of grain has been produced for the consumption of the colony; and it is also through their want of means, and their want of capital and skill,

[1] *Parl. Papers*, 1822 (448), vol. xx, pp. 140, 149–50. J. T. Bigge was Commissioner.

[2] He estimated the total emancipist class at about 5,000 in a population of over 29,000.

that the productive powers of the soil, that is not generally a fertile one, have been exhausted by repeated cropping. Many of the original grantees are now either reduced to a state of dependence upon their creditors, or are seeking for opportunities of redeeming themselves, by removal to some new and more productive tracts. There are, however, exceptions to these cases, and they consist of the emancipated convicts, who, during servitude, were enabled to accumulate property, and acquired a knowledge of agricultural occupations, and who obtained grants of some portion of the rich lands in the valley and plain, that are fertilized by the inundations of the rivers Nepean and Hawkesbury. . . .

The attempt of Governor Macquarie to introduce the emancipated convicts whom I have named[1] into general society, has not been attended with much better effect. In making this attempt, it has been a favourite expression of Governor Macquarie, and is now adopted by the emancipated convicts themselves, that by setting an example himself, and encouraging association with them in others, he is in fact only restoring these people to the rank in society that they had lost. I cannot think that this favourite expression and argument of Governor Macquarie can have been either strictly used or well considered by him; inasmuch as there is not one of the persons whom he has thus admitted to his society, to whom (with the exception perhaps of Mr. Redfern[2]) it may not be truly said, that such an admission was a very great elevation. . . .

The elevation of these persons to a rank in society which they never possessed, and for which, without meaning any reflection upon them, their manners gave them no kind of claim, has not been productive to them of the benefits that were contemplated.

It was in vain for Governor Macquarie to assemble them, even on public occasions, at Government House, or to point them out to the especial notice and favour of strangers, or to favour them with particular marks of his own attention upon these occasions, if they still continued to be shunned or disregarded by the rest of the company. . . .

[1] Men like W. Redfern, S. Lord, J. Meehan, M. Robinson, and F. Greenway.

[2] *William Redfern*, surgeon's mate, had been transported for being concerned in the mutiny at the Nore in 1797. He obtained a free pardon in 1808 and, qualifying in 1808, became assistant surgeon to the colony. In 1819 Macquarie made him a magistrate, but owing to Bigge his appointment was not confirmed.

37

LIEUT.-COLONEL EDWARD NICOLLS: MEMORIAL SUBMITTED TO LORD BATHURST FOR A MILITARY COLONY IN NEW ZEALAND

8 November 1823[1]

[Woolwich.]

. . . Your memorialist, having been long impressed with the conviction that in many cases the parent State might, and ought to, be relieved from the expense, vexation, and trouble to which colonization has hitherto subjected it, begs leave to submit to your Lordship's favourable consideration a plan which he humbly conceives would not only exempt the Mother country from the expense usually incurred in such undertakings, but which also in a peculiar degree embraces objects of vital importance to the naval consequence and commercial interests of the British Empire. . . .

[He maintains that a settlement of pensioners under military discipline would obviate the internal factions which had been the bane of most infant colonies, and would also put an end to inter-tribal wars among the Maoris.]

It has been too commonly the practice for settlers from this country, either forcibly to dispossess the natives of those lands which have devolved to them from their forefathers, or to obtain the peaceful resignation of them on certain stipulations which they afterwards deemed it unnecessary to fulfil. This violence in the first, or breach of faith in the latter, instance has been productive of the worst consequences to the settlers themselves, by provoking a just though savage retaliation, and has equally injured the natives by affording them an example and excuse for their ferocious acts.

During the last year, in the midst of an Indian population as wild and sanguinary as the natives of New Zealand, your memorialist learned the absolute necessity of adhering to the strictest rules of equity in all his transactions with them. Their experience of the perfect justice of his dealings induced an equal return of good faith on their part, and he had the happiness by this means of producing amongst them much civilization, and an abandonment of many of their barbarous customs. It is therefore essentially necessary to the success of this plan of colonization that Government should obtain from the

[1] C.O. 201/147, ff. 181–4. *Lieut.-Colonel Nicolls* of the Royal Marines claimed to have had a long interest in colonization. He had had experience in various parts of the world, had read widely in books of travel and geography, and had already sounded the Southern Whalers on the value of his plan of colonization for New Zealand. (They had themselves entertained the idea of a colony there in 1810 at the time of the *Boyd* massacre; see *H.R.N.Z.*, vol. i, p. 296.) R. W. Hay seems to have made a few inquiries himself, but no action was taken on Nicolls's plan, though missionary opinion was favourable; see below, pp. 519–20.

natives of New Zealand by fair barter a sufficient portion of land to locate the settlers. . . .

A cheap and certain supply of the *Phormium tenax* from New Zealand in substitution of hemp and flax from the Baltic and other European sources would not only in a rational point of view render the country independent of other States for all national stores connected with these articles, but would in a commercial light give to the British manufacturer of hemp and flax a decided superiority in the excellence and cheapness of their goods, which by no possibility could be met with in the foreign market.

Your memorialist takes the liberty of submitting that at no future period could this colony possibly become a burthen to the Mother country for the subsistence of the emigrated inhabitants, it being, from the excellence of its climate and prolific nature of the soil, together with the quantity of fish furnished by the sea shores and rivers, amply supplied with food and the other requisites of human life. To our traders engaged in the South Sea commerce the greatest advantages would be afforded by the safe and commodious harbours of this island—its timber for the repair of their ships, and abundant provisions for the refreshment of their crews; and your memorialist is humbly of opinion that a colony thus favourably situated, and organized according to the before-mentioned plan, must soon become one of the most important foreign establishments belonging to the British Empire.

Those useful and gallant emigrants from the northern counties of Ireland and Scotland who are daily flocking to the shores of the United States of America would soon be tempted to seek an asylum in New Zealand; their abilities and industry, which at present are worse than lost to the parent State by strengthening the hands of a formidable rival, would then become of the highest value to their native country, and the knowledge possessed by these individuals from their early experience in the rearing and dressing of flax would fit them in a peculiar manner for bringing the staple commodity of this island to perfection; whilst they would carry the practices of their youth to a profitable market in the preparation of the indigenous flax for all the British manufactures in which hemp [or] flax is employed.

Your memorialist, impressed with a conviction of the accuracy of these his views on the subject of colonization, begs leave to state that it is his anxious wish to be considered by Your Lordship as eligible and competent to be entrusted with the colonization of New Zealand. . . .

38

SWAN RIVER: WILLIAM HUSKISSON TO GOVERNOR RALPH DARLING, 28 January 1828[1]

SIR,

His Majesty's Government have given their fullest attention to the report of Captain Stirling,[2] transmitted in your dispatch No. 56 of the 21st of April last, respecting Swan River, situated in the north western coast of New Holland, to which place he had proceeded with the view of ascertaining whether this situation was as eligible for a settlement as was supposed.

It is evident, from the result of Captain Stirling's examination, that many of the advantages required for a settlement exist in the neighbourhood of that river; but, on the other hand, the great distance of this part of the coast from Sydney and the uncertainty at all times of the passage through Basses' Strait appears to render it extremely difficult to form and keep up an establishment there, as it cannot be viewed as a dependence upon the present colony, but wholly in the light of a new one, almost as much separated from New South Wales as it would be from England, and consequently requiring, if formed, all the machinery of a distinct Government.

Under these circumstances, I am of opinion that it would be inexpedient, on the score of expense, to occupy this part of the coast, and that it is unnecessary, with a view to any urgent interest, to attempt any new settlement at present in that quarter, especially as Captain Stirling's anticipation of a commercial intercourse with India, or as a place to which Europeans resident in India would be disposed to repair to recruit their health, etc., are not likely to be realized from the dangers which surround the whole range of the western coast, not excepting even that part of it in question, and which would naturally induce ships bound to India to avoid rather than to wish to approach it.

I shall not fail, however, to apprize the East India Company of the circumstances attending the discovery of Swan River, in case they should consider it advisable to make any settlement there; but I am not aware of any sufficient motive to induce them to embark in an undertaking of this nature. . . .

[1] *H.R.A.*, Series I, vol. xiii (1920), pp. 739–40. *William Huskisson* had succeeded Nepean in 1795 as Under-Secretary in the War Department. He entered the House of Commons in 1796, and was appointed Colonial Agent for the Cape in 1798 and for Ceylon in 1810. He was Secretary to the Treasury under Pitt in 1804 and under Portland in 1812, and became a Privy Councillor in 1814. In 1822 he was appointed Treasurer to the Navy and President of the Committee for Trade when his friend, Canning, joined the Liverpool administration. On Canning's death he was Secretary of State for War and the Colonies from 1827 to 1828.

[2] *Captain James Stirling* had explored the Swan River in March 1827 and reported so favourably to Governor Darling that the latter supported his representations for a new colony there.

39

COLONIAL OFFICE CONDITIONS FOR LAND GRANTS AT SWAN RIVER, 5 December 1828[1]

Although it is the intention of His Majesty's Government to form a settlement on the western coast of Australia, the Government do not intend to incur any expense in conveying settlers or in supplying them with necessaries after their arrival.

Such persons, however, as may be prepared to proceed to that country at their own cost before the end of the year 1829, in parties comprehending a proportion of not less than five female to six male settlers, will receive grants of land in fee simple (free of quit rent), proportioned to the capital which they may invest upon public or private objects in the colony, to the satisfaction of His Majesty's Government at home, certified by the Superintendent or other officer administering the colonial government, at the rate of forty acres for every sum of £3 so invested, provided they give previous security; *first*, that all supplies sent to the colony, whether of provisions, stores or other articles, which may be purchased by the capitalists there, or which shall have been sent out for the use of them or their parties on the requisition of the Secretary of State, if not paid for on delivery in the colony, shall be paid for at home, each capitalist being to be held liable in his proportion; and, *secondly*, that, on the event of the establishment being broken up by the Governor or Superintendent, all persons desirous of returning to the British Islands, shall be conveyed to their own home at the expense of the capitalist by whom they may have been taken out. The passages of labouring persons, whether paid for by themselves or others, and whether they be male or female, provided the proportion of the sexes before mentioned be preserved, will be considered as an investment of capital entitling the party by whom any such payment may have been made to an allowance of land at the rate of £15, that is, of 200 acres of land for the passage of every such labouring person over and above any other investment of capital.

Any land thus granted, which shall not have been brought into cultivation, or otherwise improved or reclaimed from its wild state, to the satisfaction of Government, within twenty-one years from the date of the grant, shall, at the end of the twenty-one years, revert absolutely to the Crown. All these conditions with respect to free grants of land, and all contracts of labouring persons and others, who shall have bound themselves for a stipulated term of service, will be strictly maintained. It is not intended that any convicts or other

[1] C.O. 18/1. Printed in *H.R.A.*, Series III, vol. vi (1923), pp. 594–5. Enclosed in R. W. Hay's reply to the memorial from Thomas Peel (and others) to Sir George Murray, 14 November 1828 (see ibid., p. 588). The more detailed regulations for intending emigrants are also printed (ibid., p. 606).

description of prisoners be sent to this new settlement. The Government will be administered by Captain Stirling of the Royal Navy, as Civil Superintendent of the settlement, and a Bill in the nature of a civil charter will be submitted to Parliament in the commencement of its next session.[1]

40

SIR GEORGE MURRAY TO GOVERNOR DARLING, 12 January 1829[2]

SIR,

By my predecessor's dispatch of the 28th of January 1828, you were informed of the grounds which induced His Majesty's Government at that time to relinquish all idea of colonizing that part of the western coast of New Holland, which had been visited by Captain Stirling.

Circumstances have since occurred to render the occupation of that position desirable, and an expedition, under the orders of Captain Stirling, who will upon his arrival assume the title of Lieut. Governor, has therefore been fitted out, and is now on the point of sailing from this country to form a settlement as near as may be possible to Swan River.

The difficulties, which would at all times attend the keeping up a regular communication between Sydney and the new settlement, have determined His Majesty's Government not to constitute this colony a dependency of your Government nor to place Captain Stirling under your orders. He will look to the Cape for the necessary supplies of the colony, but you will of course afford every assistance which he may require, should he have occasion to apply to you for that purpose. . . .

41

SWAN RIVER COLONY: LIEUT.-GOVERNOR JAMES STIRLING TO SIR GEORGE MURRAY, 20 January 1830[3]

Perth, Western Australia.

SIR,

On the 9th of September I had the honour to announce to you my arrival here, and the commencement of this settlement; I now beg leave to lay before you the following information relative to its progress since that period, its present condition and future prospects.

As soon as the difficulty attendant on landing and housing the establishment was surmounted, I caused an exploration of the country immediately in the neighbourhood of the port to be made, and two

[1] The Bill was dated 3 April 1829.
[2] *H.R.A.*, Series I, vol. xiv (1922), p. 610.
[3] C.O. 18/7. Printed in *H.R.A.*, Series III, vol. vi, pp. 615–16, 621.

towns to be laid out; one, named Freemantle, at the entrance of Swan River; the other, Perth, about nine miles higher up, on its right or northern bank. Allotments in these towns were speedily occupied by the first settlers, who arrived in August, and the more diligent among them commenced the erection of temporary buildings. On the 1st of October, I found it necessary to open a district of country for location. In the first instance, I selected for that purpose the banks of the Swan River; and, being urged by further applications for land, on the 2d of November I threw open the country extending between the sea and the mountains fifty miles southward from Perth, including the district originally reserved for Mr. Thomas Peel.[1] In these districts, the first comers found suitable locations, and acting under the impulse of novelty, there were many who at once established themselves on their lands, regardless of danger from the natives and of the difficulty they encountered in removing their goods from the coast. This adventurous and laudable spirit, which it was politic to encourage, I am happy in saying met with no check; and single individuals have traversed the country freely, at great distances from the towns, hitherto without interruption or injury.

In the course of October, November and December, some ships and many settlers came in. Their arrival before the country could be properly surveyed occasioned great inconvenience. Viewing no evil so great to the settler as delay in assigning to him his land, I was accordingly forced to grant locations on unsurveyed lands, and to determine on the sites of towns without experience of their merits. . . .

Among the settlers who arrived, there were many indentured servants, who had been recommended to their employers by parish officers, and whose habits were of the loosest description. To control these and to protect their masters in their just rights, as well as to secure the safety of persons and property, I was obliged before the conclusion of the year to appoint a magistracy and a body of constables; the first, from among the most wealthy and prudent of the settlers; the latter, including the steady and most respectable part of the working class. . . . Since these appointments, I am happy in saying there have been fewer irregularities; and as the population of the settlement is now generally diffused over a large surface, and as part have commenced agricultural labour, drunkenness and similar evils will be less frequent than when the people congregated in one or two towns with little to do. . . .

[Some colonists appear disappointed, but there are good prospects for grazing, fishing, farming, and trading with Mauritius and the Malay Islands.]

[1] *Thomas Peel*, second cousin of Sir Robert, had formed with others an association to colonize Swan River in 1828. A year later his associates withdrew; he made terms with the Government, and took 300 settlers to Western Australia. Unfortunately his emigration policy was mismanaged, and the colony barely survived. The Swan River Colony was used by E. G. Wakefield in his *Letter from Sydney* as an example of unsystematic colonization.

These are the prospects which engage the minds of those persons here, who have overcome the anxieties of their first establishment in a new land. But, in holding out to your notice these prospects, which are contemplated by those whose minds are in a healthy state, I must not lead you to believe that such a favourable view of things is entertained by all here. The greater part, incapable of succeeding in England, are not likely to prosper here to the extent of their groundless and inconsiderable expectations. Many of the settlers who have come should never have left a safe and tranquil state of life; and, if it be possible to discourage one set of people and to encourage another, I would earnestly request that for a few years the helpless and inefficient may be kept from the settlement, while, to the active, industrious and intelligent, there may be assured with confidence a fair reward for their labours. This country may, at no distant period, absorb with advantage to Great Britain and herself an immense migration of persons; any great portion of which, if sent forward too soon, will ruin her prospects and their own. . . .

C. SETTLEMENT SCHEMES IN CANADA

42

LORD SELKIRK ON EMIGRATION, 1806[1]

. . . Some persons, indeed, have insinuated that the colonies are altogether of little use. That is a point which it would be foreign to my present purpose to discuss. Those, however, who are of that opinion ought to argue, not for their being neglected, but relinquished. If they are to be retained, it cannot surely admit of a doubt, that it is better the overflowings of our own population should contribute to their improvement, than to that of a country with which we are unconnected, and which may become hostile to us. It is besides of no small importance, that our own colonies should be peopled by men, whose manners and principles are consonant to our own government.

It is with regret I have heard persons of distinguished judgment and information give way to the opinion that all our colonies on the continent of America, and particularly the Canadas, must inevitably fall, at no distant period of time, under the dominion of the United States. That continued mismanagement may bring this about cannot be denied; but I think it equally clear that, by steadily pursuing a proper

[1] *Observations on the Present State of the Highlands of Scotland, with a View of the Causes and Probable Consequences of Emigration*, by the Earl of Selkirk, Edin. 1806, pp. 164–9.

system, such an event may be rendered not only improbable, but almost impossible.

The danger to be apprehended is not merely from an invading military force, but much more from the disposition of the colonists themselves, the republican principles of some, and the luke-warm affection of others. From the origin of some of the settlements, formed at the close of the American war entirely by refugee loyalists, we might naturally expect to find among them a population firmly attached to the interests of Britain. The fidelity, of which they had given proof during the war, was recompensed by the scrupulous attention of Government to their relief and support, when the contest became desperate; and, in all the situations where an asylum was provided for them, they received advantages unprecedented in the history of colonization. This generous conduct of Government has not been forgotten; and the most satisfactory dispositions still remain among these loyalists and most of their descendants.

But the general character of some of the colonies has received an unfortunate tinge, from the admixture of settlers of a very different description. Numbers of Americans, of principles the most opposite to the Loyalists (many of them worthless characters, the mere refuse of the States), have since found their way into these provinces. Unless effectual means are adopted to check this influx, there is every probability that it will continue. . . .

Under these circumstances, it is evident what important services may be derived from such a body of settlers as the Highland emigrants would form. It is not merely from their old established principles of loyalty, and from their military character, that they would be a valuable acquisition. It is a point of no small consequence, that their language and manners are so totally different from those of the Americans, as this would tend to preserve them from the infection of dangerous principles. But, it seems, in this view, of essential importance that, whatever situation be selected for them, they should be concentrated in one national settlement, where particular attention should be bestowed to keep them distinct and separate, and where their peculiar and characteristic manners should be carefully encouraged.

It is much to be regretted, that so little attention has been paid to this principle, not only with respect to the Highlanders, but also the Dutch and Germans, who, in some parts, form a considerable proportion of the colonists. Had these also been separated into distinct national settlements, they would have formed a strong barrier against the contagion of American sentiments; and any general combination against the mother country would have been rendered almost impossible. . . .[1]

[1] In May 1802 *Selkirk* had suggested organized settlement in Canada as a cure for recurrent Irish disorder and had proposed the establishment of a Colony west

43

WILLIAM McGILLIVRAY TO LIEUT.-COLONEL JOHN HARVEY, 24 June 1815[1]

MY DEAR SIR, Montreal.

I have had the honour of receiving your letter of the 14th instant, stating the communication which had been made to his Excellency Sir Gordon Drummond, from high authority, relative to the alarm entertained by the Earl of Selkirk for the safety of his settlement on the Red River, and asking from me an opinion, whether or not there is ground for such alarm. . . .

His Excellency may rest assured that the North-West Company will never instigate, nor authorize any of their servants to instigate, the Indian nations to commit murder, were they even as void of humanity as the Earl of Selkirk seems to consider them; they know too well the consequences to themselves of encouraging disorders of any kind in the Indian country. The Indians, once roused to arms, would hardly distinguish between an Highlander or Canadian from the shores of Hudson's Bay, and people of the same country coming from Canada. I beg leave to enclose some documents which may be considered as referred to in this letter. I wish his Excellency to be possessed of facts, in order to remove from his mind any unfavourable impression which the unfounded and self interested calumnies, raised and propagated against us by the Earl of Selkirk and his agents and partisans are calculated to produce. That nobleman has thought proper lately to become the avowed rival of the North-West Company in the trade which they have carried on for upwards of thirty years

of Lake Winnipeg in the interior recently explored by Alexander Mackenzie of the North-West Company. But the Under-Secretary, John King, had expressed the view that *bloc* settlements with their own distinct governments were not practicable in Canada, and that it was undesirable to disturb the fur traders; and in the following July Hobart suggested to Selkirk that settlement would be easier with people 'more tractable than the Irish' (C.O. 42/330). A year later 800 Highlanders left for a grant of land made to Selkirk in Prince Edward Island, and a further tract in Upper Canada was promised. Through his family Selkirk gradually acquired a controlling interest in the Hudson's Bay Company until in May 1811 he was able to buy 116,000 square miles (which he called Assiniboia) on the Red River for a settlement. See 'Prospectus for a new Colony', printed in Pritchett, *The Red River Valley*, Toronto, 1942, p. 49.

[1] *Parl. Papers*, 1819 (584), vol. xviii, pp. 7–9. Enclosure 5 in Sir G. Drummond's of 16 August 1815. *William McGillivray* had been a partner in the North West Company since 1790, and since 1804 its chief Director. In 1814 he was made a Legislative Councillor of Lower Canada. In 1815 he became involved with Selkirk over the Red River Settlement, which threatened the fur trade, and was arrested by him, but was acquitted by the Montreal Courts. He retired to Scotland when the North-West Company and the Hudson's Bay Company united in 1821. *Lieut.-Colonel John Harvey* had been appointed in 1812 deputy Adjutant-General to the forces in Canada, and was Secretary to the Acting Governor of the Canadas, Sir Gordon Drummond, who was a strong partisan of the North West Company and had written to McGillivray for comments on Bathurst's instructions that the Red River Settlement should be protected.

with credit to themselves, and it is hoped with benefit to their country. Under the guise and cloak of colonization, he is aiming at and maturing an exterminating blow against their trade. Insinuations of alarm and false accusations form part of the system, and his agents and servants are probably instructed to bring them artfully forward, to raise prejudices against us; surely interested representations from such a quarter should be received with caution, and be better supported than the correspondence of his Lordship's agent sent to Canada; who collects and reports his pretended information as derived from a common Canadian whom he does not name. It is matter of astonishment, that the idea of colonization in the Indian country, at the distance of 2,000 miles from home, should be tolerated by His Majesty's Government, and its consequences not seen through. If it fail, as it must and ought, numerous innocent individuals will fall a sacrifice to his Lordship's visionary pursuits; and if it succeeds, it must infallibly destroy the Indian trade in the result; as experience proves, that when colonization advances, Indians and their trade disappear. Thus his Lordship is contributing towards Indian extermination. Besides the planting of colonies so far in the interior, where they are placed out of the reach and control of the mother country, is, as it were, transferring them and their future interests to the United States, in whose territory, by the terms of the late treaty of peace, they will most probably be found; and thus a strength is raising up to be hereafter employed in aid of American ambition against British interests. In a fair commercial competition, we have no objection to enter the lists with his Lordship, but we cannot remain passive spectators of the violence used to plunder or destroy our property, under any pretended or usurped authority as was assumed by Mr. Miles McDonnell,[1] who styles himself governor, but whose proclamation resembles that of a bashaw, respecting our depôts or collection of provisions for the trade as above stated. In all such attempts hereafter, the North-West Company would assuredly be justified in repelling force by force; at all events, I cannot but consider the rights and property of that body as equally entitled to the protection of His Majesty's Government as the Earl of Selkirk's. . . .

44

WILLIAM McGILLIVRAY TO ROBERT LORING

28 November 1815[2]

Montreal.

. . . The final dispersion of the colony, and the arrest of Mr. Miles McDonnell, resulted from the wild and mischievous tendency of the

[1] A Glengarry Highlander who had trekked with the Loyalists and Johnson's Mohawks to Canada during the American War of Independence, and whom Selkirk chose to take charge of his Red River venture.

[2] *Parl. Papers*, 1819 (584), vol. xviii, pp. 35–37. Enclosure 3 in Sir G. Drum-

original project which engendered that colony, and the unjust and arrogant pretensions and conduct of those entrusted with its execution. Its origin was bottomed upon the ostensible pretext of aiding the Hudson's Bay Company in their trade, but with the real intention of directly ruining that of their rivals, the North-West Company, as his Lordship had previously become a partner of the other concern; and possibly under the further idea of turning the scheme of colonization to his personal advantage, if the trade of both companies should from its effects, in the event of its success, be involved in ruin. Colonization, at the distance of 2,000 miles from an Atlantic port, in the heart of Indian nations, and above 1,000 miles from any other agricultural establishment or outlet to a market, confirms the belief that something beyond what was advanced, was cautiously concealed under a plausible exterior. It is well known that colonization, and Indians with their trade, cannot to any great extent co-exist. . . .

I do however hope that the dispersion of his Lordship's colony will lead him to pause, and henceforth to apply his wealth and acknowledged talents to pursuits more congenial to the dignity of a peer of the realm; but if unhappily it be otherwise, I cannot but entertain a well grounded confidence that His Majesty's Government will interpose to prevent its re-establishment, with the consequent and manifest injustice to the Indians, and certain injury to British trade and British interests connected therewith, which such establishment could not fail to produce.

In conclusion, it is proper to observe that the distresses endured by his Lordship's colonists, in consequence of the delusion of his agents, if not of himself, were almost beyond description, and such as to make three-fourths avowedly, and probably all secretly, to rejoice at their liberation from a new species of bondage. . . .

45

LORD BATHURST TO LIEUT.-GOVERNOR SIR JOHN SHERBROOKE, 11 February 1817[1]

. . . . I am fully sensible of the danger which may in the interim result to the commercial and political interests of Great Britain, from the opening which the conduct of Lord Selkirk appears calculated to give to the admission of foreign influence over the Indian nations, to the exclusion of that heretofore exercised by the subjects of Great Britain; and feel the necessity of putting an end to a system of lawless violence, which has already too long prevailed in the Indian territory, and the more distant parts of Upper Canada. By resisting the execution

mond's of 6 December 1815. *Robert Loring* was an assistant secretary to Sir Gordon Drummond.

[1] *Parl. Papers*, 1819 (584), vol. xviii, pp. 72–73.

of the warrant issued against him,[1] Lord Selkirk has rendered himself doubly amenable to the laws, and it is necessary, both for the sake of general principle, for the remedy of existing as well as for the prevention of further evils, that the determination of the Government to enforce the law with respect to all, and more particularly with respect to Lord Selkirk, should be effectually and speedily evinced. You will, therefore, without delay, on the receipt of this instruction, take care that an indictment be preferred against his Lordship for the rescue of himself, detailed in the affidavit of Robert Mac Robb, and upon a true bill being found against him, you will take the necessary and usual measures in such cases for arresting his Lordship, and bringing him before the court from which the process issued. Surrounded as Lord Selkirk appears to be, with a military force, which has once already been employed to defeat the execution of legal process, it is almost impossible to hope, that he will quietly submit to the execution of any warrant against himself, so long as any opening is left for effectual resistance. It is therefore necessary that the officer, to whom its execution is entrusted, should be accompanied by such a civil (or if the necessity of the case should require it, by such a military) force, as may prevent the possibility of resistance. The officer, however, must be cautioned, that the force entrusted to him is not to be employed in the first instance, but is only to be resorted to in aid of the civil authority, in case of any opposition being made to the execution of his warrant in the ordinary manner. . . .

46

LORD SELKIRK TO LORD LIVERPOOL

19 March 1819[2]

. . . When the general system and constitution of the North-West Company are well considered, the motives of their hostility to the Settlement on Red River will be evident. Their superiority of numerical force has hitherto enabled them to overpower all their opponents in the interior. By these means they have obtained, in a great extent of country, the exclusive possession of a trade, to which they have no exclusive right, and their whole object is to maintain this unauthorized monopoly. For this purpose, they keep a very numerous establishment of servants, among whom they select fit tools to be

[1] The North-Westers had reported this to the Colonial Office and Selkirk, in Sherbrooke's words 'unheard and uninformed', was condemned on the word of his rivals who saw the coming of the farmer as a threat to the trapper. Bathurst, it seems, was prepared to do Selkirk an injustice so long as he could manœuvre a merger of the two companies.

[2] *A Letter to the Earl of Liverpool from the Earl of Selkirk, accompanied by a correspondence with the Colonial Department (in the years 1817, 1818, and 1819) on the Subject of the Red River Settlement in North America*, Lond. 1820, pp. 7–9.

employed in any outrage, which may be necessary to promote their interest; and, by a system of lawless violence, they not only deter other traders from entering into competition with them, but also hold the native Indians in a state of miserable subjection. The methods by which they have too long succeeded in effecting these purposes, I have explained in a small pamphlet, entitled, 'A Sketch of the Fur Trade in British North America'; and I may refer with the more confidence to that publication, as it has now been two years before the public, without the slightest attempt having been made to contradict the facts, or to refute the arguments, contained in it.

The North-West Company do not pretend to deny, that, from the first, they looked upon the colonization of Red River as peculiarly objectionable; and they attempt to justify their objections on the ground of its being prejudicial to the fur trade.—The Settlement, however, is situated in a district which has long since been exhausted of valuable furs. The traders obtain no articles of any importance from that part of the country, except provisions; and of these, a better, cheaper, and more regular supply might certainly be procured from agricultural settlers, than from the Indian hunters. At all events, the persons engaged in the fur trade can be entitled to nothing more from Government than protection in their lawful rights; but a great deal more has been bestowed upon them, under some vague idea, as it would appear, of the national importance of their trade, and of the necessity of supporting the interests of Canada.

Upon inquiry, however, it will be found, that the fur trade of Canada, is, comparatively speaking, of little importance, either to that province, or to the mother country.—The inhabitants of Canada themselves, with the exception of a few persons connected with the North-West Company, look upon the fur trade as prejudicial rather than as contributing to the prosperity of the province. The North-West Company, indeed, would insinuate, that their own interests are identified with those of the colony at large; but the Canadians are of a very different opinion. In fact, that Company enjoys no influence whatever with the great body of the inhabitants, either of English or of French extraction: nor does it appear that their boasted influence over the Indians has ever been of the slightest use either to His Majesty's Government, or to the colony itself. Among the numerous native tribes who joined the British standard during the late arduous struggle with the United States, there was not to be found one Indian from the whole extent of country in which the North-West Company carry on their trade. . . .

The whole of this boasted trade, however, gives employment only to one vessel of 350 tons burden, in one yearly voyage to and from the St. Lawrence; and the average amount of import duties annually paid by the Company does not equal those paid upon a single cargo of an ordinary West Indiaman.

With respect to their exports, the representations of their agents are equally delusive. . . . In fact, a few well-established parishes or townships in Canada, covering a space of thirty or forty miles square, consume more British manufactures than all the Indian territories put together.—What then are we to think of those who would sacrifice colonization to the fur trade! . . .

D. SIERRA LEONE

47

ORDERS AND REGULATIONS FROM THE DIRECTORS OF THE SIERRA LEONE COMPANY TO THE SUPERINTENDENT AND COUNCIL FOR THE SETTLEMENT, 1791[1]

. . . *Cultivation*

6. It has however clearly appeared to the Directors that an increase of the exportable African produce is the basis on which the extension of trade, proposed by the Act of Parliament, must ultimately rest; and since the Africans have been both directly and indirectly discouraged and even prevented by the slave trade from availing themselves of the natural advantages of their soil and climate, it must be the leading object of the Company to turn their views to cultivation.

7. The most effectual means of doing this is for the Company to set them an example by a spirited cultivation in their own district,[2] and on their own account; and as there is reason to think the Company will every way benefit in proportion to the agricultural improvements which they shall be able to bring about in Sierra Leone, so if such cultivation should become general on the African coast, the trade to Great Britain will proportionately be increased, its manufactures extended, and its interest as well as those of Africa promoted on the sound principles of a fair and reciprocal commerce.

8. Both on the public ground therefore of advantage to Great Britain, and also that of profit to the Company, the introduction of a system of spirited cultivation in Africa is most highly desirable.

[1] From the Melville Collection of State Papers, *circa* 1791. Printed in *Sierra Leone Studies*, vol. xviii, Nov. 1932, pp. 44–77. See also introduction by L. E. C. Evans in the same volume, pp. 26–42. *The Board of Directors*, consisting of merchants and philanthropists, included Henry Thornton, Philip Sanson, Sir C. Middleton, Sir G. Young, W. Wilberforce, Rev. T. Clarkson, J. Hardcastle, J. Kingston, S. Parker, Granville Sharp, W. Sandford, Vickeris Taylor, and G. Wolff. *Lieutenant John Clarkson*, R.N., the younger brother of the Rev. Thomas Clarkson, succeeded the first Superintendent when H. H. Dalrymple resigned. He had been in charge of the fleet which brought the Nova Scotians to the colony.

[2] Compare Maitland's opinion of the need for a European example of cultivation in Ceylon, 21 May 1806 (C.O. 54/22).

Civilization

9. Cultivation however naturally implies the civilization of those among whom it is to be introduced, for without this no great degree of effective industry is to be expected.

10. Civilization is therefore even in this commercial view a fundamental point; but the Directors would be extremely insensible to the principles by which they know the proprietors are actuated, if they were to fail in observing to you that it is a spirit of benevolence and a zeal for the extension of light and knowledge in a continent which has been kept in misery by the slave trade, that have chiefly prompted them to the present undertaking; and though the establishment of an advantageous trade by means of an increasing produce is one leading object, yet you are to remember also that the introduction of Christianity and civilization is a point, which in compliance with the wishes of the proprietors, and in hearty conformity to our own, we enjoin our Council to have in view; and for the promotion of which, in conjunction with an honourable trade, you are to consider yourselves as sent out.[1]

11. To those whom agreeably to the instructions you will receive from us, you may receive under your jurisdiction, you are to afford the asylum of an equal and good government; you are to instruct and assist them on the one hand, you are to avail yourselves on fair terms of their labour on the other, and to endeavour by the most prudent management to turn it to good account.

12. We trust also that by teaching the Africans the advantage to be derived from free labour, and by securing to every man personal protection and the enjoyment of the fruits of his own industry, the abolition of the slave trade will be assisted, which the proprietors in general have exceedingly at heart. . . .

Behaviour towards blacks.

. . . Nothing could be more injurious either to the interest of the Company or the harmony and welfare of the colony than these invidious distinctions: every trace of them therefore should be carefully eradicated. In this view, we recommend it to you to employ in your service, so far as you are able, black and white men indiscriminately,

[1] The objects of the St. George's Bay Association (1790) which had first sent settlers to Sierra Leone were declared as follows: 'to colonize a small part of the coast of Africa, to introduce civilization among the natives, and to cultivate the soil by means of free labour at the same time abjuring all concerns whatever in the odious traffic of human bodies and binding itself neither to deal in slaves, nor to allow of any slave trade in the territory: to maintain peace unless attacked; to punish crimes; to govern all equally according to the laws of England; to open schools for reading, writing and accounts, and to receive and instruct the children of the natives, if sent to schools.' See P. Hoare, *Memoirs of Granville Sharp*, Lond. 1820, pp. 257–379. Granville Sharp had championed the cause of slaves in England and had won a favourable verdict in Somersett's case in 1772. In 1783 he had conceived the plan of settling freed slaves in Sierra Leone and in 1787 founded with Thomas Clarkson and several Quakers a society to promote the abolition of the slave trade.

and when you discern in any of the former, talents which might render them useful in any way, to endeavour to call these talents into action and afford them all possible means of cultivation and encouragement. . . .

Conclusion

86. Such, gentlemen, are the principal topics which the Directors think proper to recommend to your especial attention. They comprehend you will observe the chief objects which belong to the formation of a colony in a country, already peopled but at present in a rude and uncivilized state. Such are—its interior government, the preservation of peace and good order within and the defence against attacks from without; the means of supply and the precautions to be observed, with a view to health, in fine the laying of a sure foundation of a continually increasing commerce, the creation and diffusion of a general spirit of cultivation and a steady adherence to such a system and conduct towards the natives as may convince them, you are come not to enslave and oppress them, but to protect and improve them, not to enrich yourselves at their expense but to make them participate in your prosperity. On your integrity, public spirit, fortitude and discretion, on your diligence and attention to the preservation of general harmony, the success of this undertaking must in fact depend.

In the execution of every plan of this nature, many difficulties must be expected to arise, many obstacles to be surmounted and dangers to be encountered.

But you will be prepared for every exercise of courage, of activity and perseverance, by retaining in steady contemplation the immense importance of the task in which you are engaged. You cannot indeed be too deeply impressed with its extreme magnitude; this is not merely a mercantile speculation; it is not merely the profits of a trading company that are at stake, or even the commercial interests of a great kingdom, though these surely are deeply concerned in the present undertaking, it would be greatly to degrade the project to consider it only in this view. And on you is devolved the honourable office of introducing to a vast country long detained in barbarism the blessings of industry and civilization. Should this experiment fail, it may be long, if ever, before a similar one may be again attempted; whereas its success may call forth a spirit of benevolent attention towards this long neglected or much injured country. Millions yet unborn may have reason to look up to you as being under heaven the instruments of rescuing them from a state of darkness, oppression and disorder, and of imparting to them the light of religious truth and the security and comforts of civilized society.

48

REPORT OF THE SIERRA LEONE COMPANY

19 October 1791[1]

. . . It was the object of one particular head of instruction [to the Superintendent and Council at Sierra Leone] to secure to all blacks and people of colour living at Sierra Leone equal rights and privileges, as well as equal treatment in all respects with white persons. The right of trial by jury will be communicated to them in common with others, and the Council are desired to allot to any black people employments suited to their present abilities, and to afford them every opportunity of cultivating such natural talents as may appear among them; at the same time all practicable means are directed to be used for the maintenance of subordination in the colony; and the attention of the Council is particularly directed to the promotion of religion, and good morals, by the regular support of public worship, the due observance of the Christian Sabbath, and also the general instruction of the people, and the education of children. It is also an instruction to the Council, that no person is to be prevented from performing or attending religious worship in whatever place, time, or manner he thinks fit; or from peaceably inculcating his own religious opinions. . . .

[Profits will be inconsiderable for several years, but may thereafter be reasonably substantial.]

It must appear from the general account given that the Directors are endeavouring in the outset rather to lay the foundation of happiness to Africa and of future prosperity to the Company, than to grasp at any premature advantages. . . .[2]

Postscript.[3]

. . . The number, already great, is daily increasing, of those who feel for the wrongs of Africa, and are eager to discover some mode of compensating to her for the injuries she has so long been sustaining at our hands.—Whatever may have been unjustly urged against any other measure that has been brought forward under this impression, no one can object to the undertaking of the Sierra Leone Company. Even considered in relation to the abolition of the slave trade, its

[1] *Substance of the Report of the Court of Directors of the Sierra Leone Company to the General Court, 1791*, Lond. 1792, pp. 23–24, 33. In the Report of 1794 the Directors still complained that they had not received express powers from Parliament for administering the government, but had considered, as they were bound to do, that the British Constitution as far as it was applicable was of course transferred thither, and that blacks and whites had 'equal rights to the privileges of British subjects'.

[2] 'I should not chuse to permit anyone to become a purchaser', wrote Clarkson to Wedgwood, 'who would not be better pleased with the good resulting to Africa than from great commercial profits to himself.'

[3] 3 January 1792.

operation, though slow, is unquestionably sure. Though it may not at once cut up by the roots this inhuman traffic, it tends to divert the stream that waters it, and destroy the principles from which it derives its nutriment. Filled with these animating ideas, the Directors grudge not the great pains they have taken in the execution of their important trust; nor will they at all relax in their exertions. It is their joy and their comfort to be the instruments of the goodness of providence, in the communication of such great and extensive benefits. Already they anticipate the happy effects of their labours. They look forward with delight to that joyful period, when, by the influence of the Company's measures, and the efficacy of its example, the continent of Africa shall have been rescued from her present state of darkness and misery, and shall exhibit a far different scene, of light and knowledge, and civilization and order, and peaceful industry, and domestic comfort.

49

FIRST REPORT OF THE AFRICAN INSTITUTION, 15 July 1807[1]

. . . Conquest, it must be admitted, has been the harsh and more ordinary medium by which the blessings of civilization have been conveyed from one part of the world to another; but this has been because no other has often been attempted. Polished nations have commonly been too selfish to send the plow and the loom to any country, till they have first sent the sword and the sceptre. Commerce, however, which, after the first introduction of civilization into any country, has contributed to its progressive improvement beyond any other cause, Christianity excepted, has rarely been first extended in any new direction by force, or by any grand and concurrent efforts. The peaceable enterprises of individuals, aided by encouragement less important than that which our Institution may be able to impart, have often been sufficient to explore the resources, excite the industry, and call forth the commercial faculties of distant and uncivilized nations. Let it not be supposed then that our association is chargeable with aiming at ends too vast, or too difficult for human efforts to accomplish. . . .

[Unlike the Sierra Leone Company, the Institution had no plan to found a colony or even carry on commerce. The failure of the Company was no proof of the intractability of Africa or the African: the continuation of slave-trading, the outbreak of war, the costly burden of government and defence had thwarted so grandiose a plan.]

When these circumstances are considered, even if we admit that the undertaking of the [Sierra Leone] Company, regarded as a mere commercial enterprise, has failed, we may yet safely affirm that its failure has been less discouraging than that of the first settlers in the

[1] *First Report of the Committee of the African Institution*, Lond. 1807, pp. 48–50.

most valuable of our colonial possessions. It is notorious that, in the ceded islands before adverted to, though now, or lately, in a state of high prosperity, almost every private capital, that was at first embarked in their cultivation, was lost to the adventurers. So extensive was the ruin that the very easy purchase-money of lands reserved to the Government, though forming the first lien upon them, remained for the most part unpaid; and Mr. Edwards questions whether a shilling of the nominal sales ever found its way into the treasury.

This is, in truth, from known causes, the ordinary case with new colonies. It has been proverbial that the first settlers generally fail, though their successors rise on their ruins: and if such is the fate of adventurers in the fertile, well known, and well defended field of our own sugar colonies, where they have few or no public establishments to maintain, it would surely be unjust to regard the losses of the Sierra Leone Company, under the peculiar circumstances which have been noticed, as a proof that colonization in Africa can never be carried on to advantage.

Your Committee however would again remark, that supposing such an opinion to be well founded, it has no relevancy to the objects of the African Institution; for we mean not to colonize in Africa, or to trade there on our own account, but only to assist and give a right direction to the enterprise of others, and to excite the industry of the natives of that continent. . . .

50

REPORT FROM A SELECT COMMITTEE OF THE HOUSE OF COMMONS, 26 June 1816[1]

. . . But even allowing that it may be many years before trade and cultivation can advance in a great degree, and an adequate pecuniary return can be made to the mother country for the expense which she has incurred, yet this does not essentially affect the far nobler purpose for which this colony was founded, namely, the endeavour to ameliorate the condition of this hitherto ill-fated portion of the globe. It certainly has had the effect of diminishing in a very great degree the slave trade in its neighbourhood. . . .

It would have been in vain to make any attempt to improve the condition of Africa, without having first established a colony of some strength, founded upon equitable principles, from whence as a focus, all our efforts may be directed; and however Sierra Leone may have fallen short of the sanguine expectations which had been formed of its success, there is every fair probability that Africa will ultimately derive much good from this settlement, not rapidly indeed, nor perhaps

[1] *Parl. Papers*, 1816 (506), vol. vii B, pp. 125–6. The Chairman of this Committee was Earl Compton.

extensively for this century; but still advancing as far as can be reasonably expected, from power and resources so slender, and disproportioned to such a gigantic undertaking, as the civilization of any considerable portion of a continent, so steeped in barbarity as Africa.

The want of the strong control of law, and of a general system of jurisprudence, is so severely felt amongst the traders in Africa, that the foundation of a colony which may attain hereafter a sufficient magnitude, to render it a suitable seat for Courts, armed with full authority to repress and punish the enormities which so frequently happen on this coast,[1] and pass without animadversion; the foundation of such a colony must surely be considered as a matter worthy of very great attention; and there is no place on the whole coast which could in any degree be rendered so efficient for this most desirable purpose as Sierra Leone.

Neither has the public money (considered merely as a matter of account) by any means been expended upon this colony without a return, which deserves a much greater consideration than is generally given to it, namely, the asylum which it has afforded to the Nova-Scotians and Maroons, so that they are no longer a burthen upon the British treasury. . . .

51

RESOLUTIONS OF A SELECT COMMITTEE OF THE HOUSE OF COMMONS, 13 July 1830[2]

Resolved, 1. That it is the opinion of this Committee, that the evidence respecting the comparative healthiness of Sierra Leone and other settlements on the west coast of Africa is very contradictory, owing to the different periods and seasons to which the evidence relates; but the whole of the coast may be considered as generally unhealthy and dangerous to European constitutions, and in some years to a very great degree; that it is, therefore, desirable to reduce the Europeans employed on shore on that coast, in the naval, military and civil departments, to the smallest number possible; and, in such establishments as must be kept up, to substitute black people:

Resolved, 2. That it is the opinion of this Committee, that the management of the settlement of Sierra Leone has not, hitherto, been productive of advantages to the extent which were anticipated, either to the liberated Africans located there, or towards effecting an intercourse with the interior of Africa to promote its civilization, although the expenditure by Government for that purpose has, for many years, been very large; but a better system has of late been

[1] 'Committed by white people', noted the Report.

[2] *Parl. Papers*, 1830 (661), vol. x, pp. 3–4. Joseph Hume was Chairman of the Committee.

adopted, which, if persevered in, with the modification herein suggested, will secure the advantages that can fairly be expected from the maintenance of that settlement. . . .

Resolved, 4. That it is the opinion of this Committee, that although it may be desirable to retain the settlement of Sierra Leone for the purposes of trade, and to protect the blacks already located there, yet it appears to this Committee, that those objects may be attained at a very small expense, and that the greater part of the present establishments may be gradually and safely withdrawn. . . .

[The Select Committee also recommends that the Mixed Commission Court for the trial of captured slave ships should be removed from Sierra Leone to the more convenient situation of Fernando Po.]

E. THE '1820 SETTLERS' IN CAPE COLONY

52

LORD BATHURST TO GOVERNOR LORD CHARLES SOMERSET, 28 July 1817[1]

My Lord,

Various applications have during the last year been addressed to His Majesty's Government by persons who are desirous of emigrating from this country and forming establishments in the colonies; and the Cape of Good Hope has been more than once selected by them as the one in which they have considered it likely that a settlement might be attended with success. I have however deferred giving any particular encouragement to such undertakings or entering into a discussion of the terms upon which the parties were willing to engage in them, because I was desirous in the first instance of ascertaining your Lordship's sentiments as to the success of an extensive settlement of European cultivators at the Cape, and as to the nature and degree of encouragement which it would be possible or probable to afford to them; but as the desire of emigrating continues to prevail, I am anxious to receive from your Lordship such information as may enable me in reply to the several applicants to state the principle upon which settlements at the Cape would be established, and the degree of encouragement it would receive.

In affording me such information you will not fail to consider, *1st* What species of cultivation it would be advisable to promote in preference to others. *2ndly* Whether in granting lands it would be advisable to make a considerable grant to one individual who might procure subordinate labourers for its cultivation, or whether small grants to individual cultivators would not be preferable.

[1] C.O. 49/12. Printed in *R.C.C.*, vol. xi, pp. 363–4.

3dly Whether exemption from taxes for a limited period could be allowed with safety to the revenue, and what other encouragements or assistance you consider adequate to secure the success of industrious settlers. . . .

53

GOVERNOR LORD CHARLES SOMERSET TO LORD BATHURST, 18 December 1817[1]

Cape of Good Hope.

My Lord,

At the close of a confidential communication which I had lately the honour of addressing to your Lordship, I had occasion cursorily to observe that it were to be wished that our border on the side of the Caffres could be settled by many of those emigrants from England who were said to be most anxious to find employment and food in new countries and to whom the Home Government was understood to afford facilities in the attainment of their object.

In endeavouring to develop the hint then thrown out, I believe I shall best be enabled to meet the questions proposed to me in your Lordship's dispatch of the 28th July last relative to giving encouragement to this description of undertaking.

I should perhaps first observe to your Lordship that although this extensive country is very thinly peopled, yet from the mode by which land has been distributed in former times, little remains (except in the remote and frontier districts) which is not already private property; or I should probably be more correct in saying that, with the above exception, every part is occupied which could be usefully employed; such land as is still without a particular proprietor is either unfit for cultivation or pasture, or is so totally destitute of water that it must ever remain uninhabitable. . . .

Much valuable produce may hereafter become exportable through this channel [Knysna River] from the fertile and well watered vale of the Lange Kloof (100 miles in extent), and from that equally fertile division, the Cango, both which are situated immediately behind it.

But however fertile these divisions may be, they are not to be compared to those which are situated between the Great Fish River (the Caffre boundary) and the Sunday River in the Uitenhage district. Here is indeed a very fine country upon which to employ and maintain a multitude of settlers. This tract of country, particularly healthy for every description of cattle and sheep, well wooded and having very fine springs in it, is very nearly uninhabited. The paucity of borderers

[1] C.O. 48/33. Printed in *R.C.C.*, vol. xi, pp. 425–31. On 24 April 1817 Somerset had written with enthusiasm on the need for settlers on the eastern frontier (*R.C.C.*, vol. xi, p. 303).

has been such that they have never been able to settle here in quiet; the Caffres, whose territory is on the east side of the Great Fish River and whose propensity to thieving is similar to that of most other savages, have continually viewed the occupation of this fine country by the colonists with jealousy, and have molested them so systematically by constant depredations upon their herds, that insulated settlers have imbibed a great dread of occupying land in the vicinity of these artful marauders, who not very many years since, taking advantage of the intestine divisions of the colonists of the border and of the absence of military force, had driven them entirely out of the Zuureveld, which is the name of this part of the province of Uitenhage. This success had emboldened the Caffres to such a degree that their depredations increased to a great extent, they having penetrated far into the Graaff Reinet district and laid waste that of Uitenhage quite to the Lange Kloof. It was found necessary in 1812 to drive them back by military measures, as your Lordship is aware, and since that period to keep a military force on the frontier to check further inroad and to give time for settlers to establish themselves in such strength and numbers as shall supersede the necessity of keeping a military force for their protection.

This then is the situation of that part of this country which I would wish to draw your Lordship's attention to the settlement of, as a measure of government, fairly stating to your Lordship the disadvantages to which settlers would be at first exposed, and not disguising from you that I am much swayed in recommending the plan by a strong wish to be able eventually to withdraw the military detachments from that quarter for many reasons which are not at this moment the subject of discussion.

It is just that settlers should be aware that their property will be, in some measure, exposed in the first instance to be plundered by their restless neighbours unless their own vigilance and courage will have the effect of giving their property efficient protection; that the Caffres do not molest those hamlets where six or seven families unite together for mutual support, and are constantly on the alert for their defence in case of attack. We have several instances of associations of this nature living in perfect security quite on the border of the Fish River, not 100 yards from the Caffre country; the Caffres are constantly on the watch and commit their thefts when they discover our settlers to be off their guard; the herds of these families are tended in common by armed watchmen, should these be indolent or negligent they are the victims of their supineness by the loss of their property and sometimes the sleeping herdsmen lose their lives. It is obvious that increase of population will remedy this evil, and that the Caffres cannot, from their not using firearms, be any match for Europeans who have such to oppose to them.

Having thus stated the disadvantages to which settlers would be

liable in the country we have to offer them, it is now necessary to advert to the more favourable side of the picture, and to say that their reward is to be found in the cultivation of a most fertile soil in the most healthy and temperate climate in the universe, where cold is never so piercing as to congeal water, and where the rays of the sun are never so powerful as to render exposure to them injurious or to impede the usual labours of the field.

The usual tenure of the colony is that of perpetual quit rent; the land to be granted is surveyed, defined, and described by the local magistrates and surveyor acting under their directions, and the new proprietor enters upon what is ceded to him, having accurate land marks to limit his possession. The terms which have been held out to the colonists . . . are so encouraging to settlers that it does not appear to me that it would be of any practical utility to add to the advantages which are therein pointed out, in favour of new comers; it is said that the new settler shall obtain land in proportion to the means he possesses, and it will be obvious to your Lordship that the magistrates on the spot must be the best judges of the means the party settling brings with him, the number of families and the quantity of stock: to emigrants however who would be some time before they could find subsistence from the returns of the soil they would have to break up, rations might be issued as to soldiers for a limited period, but your Lordship must be well aware that every individual should as soon as possible be left to depend upon his industry for his support, and that the system of maintaining labourers otherwise than by payment in proportion to their work is one which makes men careless and induces habits of idleness.

In resuming then, I will venture to answer your Lordship's second query first, and to say that it would be most advisable to make a considerable grant to an individual who should procure subordinate labourers for its cultivation, rather than to encourage insulated cultivators, as such individual would be enabled to guide the inferior settlers and to establish such a system of mutual support among them as should ensure their perfect security. Thus from 25 to 50 male labourers amongst which there should be a proportion of artificers, would be allowed to occupy 2000 *morgen* (4000 English acres) in the first instance according to the regulations at present in force. These would contain a portion of fine garden ground, arable land and grazing ground for the cattle for agricultural purposes and supplies.

Should the industry of the individuals recommend them to Government or should it appear expedient afterwards to extend the establishment, a larger grant would then be made; but it must be understood that the 2nd clause of the regulations enclosed will be most rigidly adhered to.

It would be the interest of such an individual to study the answer to your Lordship's first query, it being laid down that upon a most

fruitful soil the same species of cultivation which affords food to man in our country is most likely to be successful here, adding to which, that when the immediate wants of the new settlers are supplied, no country yields finer wool than may be here reared; that the corn of this colony has brought in the London market the highest price known there; that tobacco is an article which might be advantageously cultivated and prepared so as to equal the best American produce; and that experiments upon the cotton plant have proved that it may be cultivated here to the greatest advantage.

I am not aware that it would be of any material injury to the revenue to grant to such settlers as might be established in the districts here pointed out, certain limited exemptions from local taxes; but I think such exemptions, it should be discretional in the Governor at the time to allow or not, according to circumstances, as I do not suppose a Governor would use such a discretion injuriously to the individual, while the stipulation for positive exemption to one class of settlers might create jealousies in the minds of others who, under other covenants, could not be thought entitled to similar privileges.

Having thus endeavoured briefly to explain to your Lordship the nature of ground we have to alienate, the circumstances under which settlers will be placed in the first instance, the disadvantages they will labour under from local causes, and the obvious advantages which they may fairly look forward to in the cultivation and settling of this inviting country, and having answered your Lordship's queries on the several points proposed to me, it remains to say a few words upon the introduction here of emigrant artificers and labourers.

Numbers of these would find ample employment and receive in remuneration for that employment comfortable lodging and board, from 12 to 15 Rixdollars a month if labourers, or more if artificers, according to their several professions and merits.

The Colonial Office has issued within the last 15 months near 800 permanent passes mostly to discharged soldiers, sailors, and other of the working class, who are so mixed in with the labouring community that the number thus added to it is not perceptible, and Mr. Moodie[1] (who delivered to me letters from your Lordship and) who brought to the colony in three separate detachments about 200 mechanics, has not found it very difficult to dispose of the indentures (for 3 years) of these men (to themselves chiefly), at from £50 to £60 sterling each.

Your Lordship will judge from these circumstances in how much request labour of this sort is here, and it must be obvious that if the persons above alluded to can, in the course of three years, realize wherewith to discharge the expense which Mr. Moodie has incurred on their account to the amount of £50 or £60 each, with what advan-

[1] *Benjamin Moodie* had obtained a recommendation from Bathurst for a grant of land and in 1817 took a party of Highlanders to the Cape. He refused the land offered in Albany as being too near the frontier.

tage industrious emigrant artificers and labourers would come here, were a free passage granted them by Government at home.

It is however essential that no prospect be held out to this class of emigrants beyond the usual reward which follows industry and regularity, and that if they are sent out at public expense they shall not continue to be maintained at such expense beyond a very limited period subsequent to their arrival (except in cases of sickness), which limitation must have the effect of forcing them into employment, from which numbers would hold back so long as they could find maintenance without working for it. It is also to be remembered that the class of emigrants is not in general composed of men of those industrious and orderly habits which would ensure to themselves success in their undertaking, but is more correctly described by Capt. Beaver as a set of 'drunken, laxy, dishonest, impatient cowards'. From such characters I must rely upon your Lordship's best endeavours to protect us, as it must be obvious how troublesome to the Colonial Magistracy and how injurious to our prosperity they would be.

Trusting that these observations are not irrelevant to the information your Lordship has required from me. . . .

54

CIRCULAR LETTER ISSUED BY THE COLONIAL OFFICE, 1819[1]

I have to acquaint you in reply to your letter of the —— that the following are the conditions under which it is proposed to give encouragement to emigration to the Cape of Good Hope.

The sufferings to which many individuals have been exposed who have emigrated to His Majesty's foreign possessions, unconnected and unprovided with any capital, or even the means of support, having been very afflicting to themselves, and equally burthensome to the colonies to which they have proceeded, the Government have determined to confine the application of the money recently voted by Address in the House of Commons, to those persons who possessing the means will engage to carry out, at the least, ten able-bodied individuals above eighteen years of age, with or without families, the Government always reserving to itself the right of selecting from the several offers made to them those which may prove upon examination to be most eligible.

In order to give some security to the Government, that the persons undertaking to make these establishments, have the means of doing so,

[1] *R.C.C.*, vol. xii, pp. 225–7. See also Vansittart's speech, 12 July 1819, *Parl. Debates*, vol. xl, 1549.

every person engaging to take out the above-mentioned number of persons or families, shall deposit at the rate of ten pounds (to be repaid as hereinafter mentioned) for every family so taken out, provided that the family does not consist of more than one man, one woman, and two children under fourteen years of age. All children above the number of two will be to be paid for, in addition to the deposit above-mentioned, in the proportion of five pounds for every two children under fourteen years of age, and five pounds for every person between the ages of fourteen and eighteen.

In consideration of this deposit a passage shall be provided at the expense of Government for the settlers, who shall also be victualled from the time of their embarcation until the time of their landing in the colony.

A grant of land, under the conditions hereafter specified, shall be made to him at the rate of one hundred acres for every such person or family whom he so takes out; one-third of the sum advanced to Government on the outset, shall be repaid on landing, when the victualling at the expense of Government shall cease. A further proportion of one-third shall be repaid as soon as it shall be certified to the Governor of the colony that the settlers under the direction of the person taking them out, are actually located upon the land assigned to them, and the remainder at the expiration of three months from the date of their location.

If any parishes in which there may be a redundancy of population shall unite in selecting an intelligent individual to proceed to the Cape, with settlers under his direction, not less in number and of the description above-mentioned, and shall advance money in the proportion above-mentioned, the Government will grant land to such an individual at the rate of 100 acres for every head of a family, leaving the parish at liberty to make such conditions with the individual, or the settlers, as may be calculated to prevent the parish becoming again chargeable with the maintenance of such settlers, in the event of their return to this country.

But no offers of this kind will be accepted, unless it shall be clear that the persons proposing to become settlers have distinctly given their consent, and the head of each family is not infirm or incapable of work.

It is further proposed, that in any case in which one hundred families proceed together and apply for leave to carry out with them a minister of their own persuasion, Government will, upon their being actually located, assign a salary to the minister whom they may have selected to accompany them, if he shall be approved by the Secretary of State.

The lands will be granted at a quit rent to be fixed, which rent, however, will be remitted for the first ten years; and at the expiration of three years (during which the party and a number of families, in the

proportion of one for every hundred acres must have resided on the estate), the land shall be measured at the expense of Government, and the holder shall obtain, without fee, his title thereto, on a perpetual quit rent, not exceeding in any case two pounds sterling, for every 100 acres; subject however, to this clause beyond the usual reservations,[1] that the land shall become forfeited to Government, in case the party shall abandon the estate, or not bring it into cultivation within a given number of years. . . .

55

LORD BATHURST TO GOVERNOR LORD CHARLES SOMERSET, 6 November 1819[2]

My Lord,

As the nature and extent of the preliminary arrangements to be made in the colony for the reception of emigrants from Great Britain will be materially influenced by the numbers for whom such provision is to be made, I take the earliest opportunity of communicating to your Lordship an abstract return of the numbers of those who have, under the regulations already communicated to you, obtained permission from His Majesty's Government to proceed to the Cape.

As it is most important with a view to the comfortable settlement of those persons that they should arrive at the commencement of the planting season, you may confidently look to the arrival of them all by the 1st of March 1820; some of them indeed may be expected at an earlier period, as the embarcation of the settlers will commence at the end of the present or the beginning of the ensuing month, and be continued as the several parties are ready to avail themselves of the conveyance provided.

Your Lordship will observe that some individuals take under their charge very considerable parties of settlers, and are in consequence provided with a minister of the religious persuasion which they profess, for whom the Government have engaged to make a competent provision. You will therefore consider yourself authorized in making to each such minister an adequate allowance for his decent support, and in every grant of land made to large bodies of settlers, you will assign an adequate grant as glebe, and will further reserve particular portions for the Crown, with a view of deriving from them hereafter the means of maintaining the clergy.

It appears to me advisable that the settlers proceeding from the three parts of the United Kingdom should be separately located, not

[1] The usual reservations were the right of the Crown to mines of precious stones, of gold and silver, and to make such roads as might be necessary for the convenience of the colony.

[2] C.O. 49/12. Printed in *R.C.C.*, vol. xii, pp. 360–2.

indeed in small parties or at such a distance from each other as to increase their difficulties, but yet sufficiently distinct to guard against all interference and dispute on the part of others whose habits, tastes and manners are extremely different. The Highland families who proceed with Captain Grant are particularly desirous not to be mixed with any others, and as they speak a distinct language, as there is every probability of their being followed by many of their friends and countrymen hereafter, and as they have requested to be placed as near to the frontier as possible, I am most anxious that a separation which would in all cases be advantageous, should in this instance be particularly attended to.

I would suggest to your Lordship that the large bodies of settlers thus separated should be made the founders of villages, and that the smaller parties should be placed on lands adjoining to one or the other according to their particular circumstances. For as the larger parties are all accompanied by a minister of religion, by medical practitioners, and by many useful mechanics, you will by this arrangement have it in your power to extend to the inferior class of settlers, without expense, many essential comforts and conveniences of which they would otherwise be deprived.

Your Lordship will, I am sure, feel that any delay between the arrival of the settlers and their location on the lands allotted, will be attended with great inconvenience, and as I trust that some progress will in consequence of my despatches of the 19th and 20th of July last, have been already made in measuring the lands proposed to be settled, I have only to suggest that you should, from the information now conveyed to you, assign the spots to particular settlers, so that they may on landing at once proceed to the places which they are permanently to occupy.

I am aware from the experience of what has taken place in forming settlements of this kind in North America, that the settlers will for some time after their arrival require much superintendence and direction. Upon the detail I shall have the honour of addressing to you a separate communication. All that may in the first instance be required will be that to each party of settlers some intelligent soldiers or non-commissioned officers should be attached, for the purpose of instructing them as to hutting or otherwise providing the necessary covering for themselves and their families, and that some officers should have the general command and direction of the persons so selected. . . .

P.S. As the expense of conveying the settlers has been found to be very considerable, I must express my hope that your Lordship will have made such arrangements previously to their arrival at the Cape, as may render it unnecessary that the vessels should be detained there longer than may be sufficient to enable your Lordship to give them directions for their ultimate destination.

56

MEMORIAL SUBMITTED BY THE SETTLERS IN THE DISTRICT OF ALBANY TO LORD BATHURST

10 March 1823[1]

The subscribing colonists in South Africa, who emigrated in the year 1819 under the patronage of their native Government, are compelled by a sense of justice to themselves, and of duty to the Government under whose auspices they embarked, to lay before your Lordship a statement of the real circumstances which have prevented their advancement.

That whatever may have been the individual disappointments and failures incidental to so numerous an emigration, they do not present themselves to His Majesty's Government with any complaint of the natural disadvantages of the country to which they have been sent. . . .

That although the settlers must lament that in its earlier stages the prosperity of this settlement has been checked in several important instances, through the misapprehensions of the general or local authorities, yet they gratefully acknowledge the prompt and generous exertions of Government in providing the means of subsistence on the commencement of the settlement, and in alleviating as far as possible the severe visitations of repeated and total failures of their wheat crops. And they cannot omit the expression of their particular gratitude to the acting Governor, Sir Rufane Donkin, who devoted to their prosperity a great share of his personal attention; to whom they owed the establishment of a town in the centre of the new settlement, as the seat of its magistracy; and a system of military defence, during which they were free from Caffre depredations, by making arrangements for a friendly intercourse with the Caffres; and by his solicitous attentions to the interests and wishes of the settlers, he inspired them with a degree of energy and hope, of which they are now left only the recollection.

That it is the peculiar hardship of their situation, placed in a remote corner of the British dominions, with their whole interests and prospects committed to the *unlimited control of one individual*, and possessing no security that their situation is thoroughly understood or properly represented that they have been debarred all means of expressing their collective sentiments upon matters of the utmost importance to their common interests.

That it has long, and from the most distressing proofs, become evident to the settlers that the colonial Government (situated at the opposite extremity of the colony, where every particular, whether of soil and climate or the constitution, pursuits and interests of

[1] C.O. 48/60. Printed in *R.C.C.*, vol. xv (1903), pp. 305–10.

society, is totally different) possesses no adequate means of ascertaining their actual wants. . . .

That as it does not appear that any natural obstacle is opposed to their advancement, they are induced to submit a candid statement of the artificial disadvantages by which they are surrounded, in the confident hope that this settlement will not be allowed to fall a sacrifice to them.

That upon their arrival, they found themselves placed according to the terms accepted by them in England (before they were aware of the peculiarities of this country), upon grants of 100 acres each in a country where it still appears necessary to the subsistence of the native farmer to grant him 4,000 acres; that this, together with the withholding two-thirds of the deposit money, which it was stipulated should be repaid after location, had the effect of precluding the majority of the settlers from pursuing the mode of farming usual in this country, and of directing their attention exclusively to agriculture.

That although the disappointments hitherto suffered in this pursuit must in a great measure refer to extraordinary and unavoidable causes, yet the settlers cannot but observe that their future prospects appear totally barred by the weightiest artificial obstacles.

That besides the injurious effects of the distinction above mentioned in drawing away a portion of the settlers to more profitable pursuits, the remaining part who may possess land of an extent worth attending to, can have no inducement to raise a surplus produce while the colonial Government reserves to itself, in the entire supply of the troops, the monopoly of the only internal market; and they can never look for an external trade while the prosperity of this part of the colony continues to be subservient to the local interests of Cape Town; while no direct trade is allowed to Algoa Bay; while no exportation is permitted except through Cape Town, and dependent upon the state of that market, and the advantage of possessing a sea port is in a great measure lost to the settlement; while every article of import brought to Algoa Bay or the Kowie is burdened with all the expense of re-shipment from Cape Town. . . .

That the settlers refrain from adverting to other numerous and serious obstacles to the prosperity of this settlement, arising from the system of government and laws to which they are subjected, from the enlivening assurance that these considerations continue to occupy the attention of His Majesty's Ministers. When they contemplate the immense resources of fertile and unappropriated territory this colony possesses in their immediate vicinity, and the provident care of the British Government to preserve the future inhabitants from the contamination of slavery, they cannot but cherish the hope that their present distresses are only temporary, and that at no distant period a numerous and flourishing colony may be here governed upon British principles, and by British laws.

[171 signatures.]

V

FRONTIER PROBLEMS

A. NORTH AMERICA

1

CONSIDERATIONS ON THE PROPRIETY OF GREAT BRITAIN ABANDONING THE INDIAN POSTS AND COMING TO A GOOD UNDERSTANDING WITH AMERICA, July 1794[1]

Those who made the peace with America ought, when they drew the boundary line, to have made some terms or conditions for the Indians who possessed the southern countries or that part to the southward and westward of the line.[2] We certainly had no right to cede to America what never belonged to us; for even on the reserved side, our Government are extremely careful in giving offence to the natives; and no attempt is made to make any settlement, without consulting the Indians, and a regular purchase made, by treaty. Now as the Indians had behaved faithfully to us during that war, we ought to have made some terms for them, and not insulted them by giving away their country without their consent. The Indians, therefore, have a strong claim upon us. To this conduct on our part, may be attributed the Indian war with America. The Americans considered our cession of the country as a title; the Indians say the country is theirs—and have defended their claim. We, again, under the pretence of infringement of the articles of peace by the Americans, chiefly founded on the confiscation of property etc., have kept possession of the posts on the American side of the line. . . .

It is by no means the interest of Great Britain to encourage an Indian war—all the settlers of America are customers for Great Britain—the Indians are also our customers; it is not our business nor interest that they should destroy one another: the more settlers in America of new land the better for us, and the longer time they will be of becoming manufacturers. We ought therefore to encourage these back settlers, the more so, as they will in time receive all their supplies by the way of Canada; it is the only means of making that country a valuable colony to Great Britain, and will prevent America ever

[1] *Chatham Papers*, P.R.O. 30/8/344. An unsigned memorandum.

[2] On the assumption that an Anglo-American commercial alliance would be immediately concluded, no provision for the protection of the Indian allies of Britain had been made in the peace Treaty of 1783, but this omission had been somewhat mitigated by British retention of the western forts, contrary to the Treaty. By Jay's Treaty, however, they were to be given up.

passing any effectual law to prohibit the importation of British manufactures. It is therefore our interest to encourage as much as possible the settlements towards the Ohio and Mississippi. At the same time that I consider it also as a matter of justice and propriety that we should endeavour to make some terms for the Indians—with this view, I would recommend that we should be the umpires between them. Let an equitable line be drawn, over which the Americans are not to trespass without a regular sale and agreement with the Indians and Congress. Let all the trade in the Indian country be free equally to the Americans and British subjects, and withdrawn on both sides all forts or factories, and leave the trade to the good faith of the traders, without any military support. This will be a vast saving to Great Britain, as to my certain knowledge these forts were a most iniquitous scene of plunder, and ever will be a useless dead weight to Government. Military protection is not necessary towards carrying on an Indian trade. Nothing can show this in a stronger point of view than what is called the North West Fur Trade above Lake Superior, which never had any military support or assistance from Government, and has extended their trade almost to the western ocean. So far from these military posts being an advantage to the trading interests, it was the reverse; the commanding officers did all they could to induce the Indians, under various pretences, to make them a present of their furs; and in return gave them goods etc. out of the King's stores: whereas had no post existed, the Indians would have exchanged these furs for goods with the traders, and have occasioned no expense whatever to Government. It is very difficult for Ministers to learn the real truth. If they consult Governors or persons interested in these countries, very few will consent to or advise any abridgement of their power or patronage; and with regard to the merchants actually in that trade, they dread any change which may affect their interest, or give the trade a different turn. . . .

The fur trade, from its nature, must diminish every year, particularly so, as the country settles, and the animals are extirpated—the lower parts of America and Canada formerly contained much fur, but at present very little is to be procured. One inhabitant that cultivates his farm is of more real service to Great Britain than twenty hunters. No new settler can become a manufacturer; they must draw all their necessaries from Great Britain. Encourage the settlers in the Indian country; their produce must either go down the Mississippi, or go to Canada; they will receive all their goods from thence; from their situation they can have little or no connection with the coast provinces of America—their dependence will be chiefly on Canada.

If that province is to be kept as a curb on America, we must conciliate the affections of the back settlers, and interest alone will tie them—they will naturally look to those that can protect them and encourage their trade, and whoever commands the mouth of the

Mississippi and the Gulf of St. Lawrence will have their support. Make peace for them with the Indians. Withdraw all your expensive posts. Be open, candid and fair, and remove all occasion of jealousy. Be at no expense with the provinces of Canada. If the Canadians will not keep the Americans out, let them march in. One year's expense last war exceeded twelve hundred thousand pounds: it could not be defended against America by British troops under two or three millions yearly; it is not tenable unless the Canadians stand forward; then I am certain America could not conquer them.

The only means to secure the Canadians would be to send a great number of the French emigrants to settle there—give them lands and provisions for one year. The superior knowledge of these people would instruct the Canadians and lead their affections—without this, I am much afraid the Canadians will never be of any service to Great Britain, and no reliance to be placed on them.

The only object Great Britain can have in retaining Canada in a commercial view, is, that as Canada extends all along the back of America, it will at all times secure to Great Britain a sale of her manufactures, and oblige the Government of America to be moderate in their duties, otherwise the goods will be smuggled in upon them. A good understanding must be courted with all the subjects of America that joins Canada. We must be well with the Vermont people, and also the back settlers: make peace for them with the Indians, and you will not only serve yourselves, but gain great credit with all parties. The war as it presently stands is occasioned by our improper conduct at the last peace, in abandoning the Indians and apparently giving away what never belonged to us; it is encumbent on us to endeavour to put an end to it, as undoubtedly the Indians are supplied by us with all their warlike stores; and whether this is done by Government or by the traders is of no consequence to America—they will consider Great Britain as the support of the war, and in a few years they undoubtedly will, from a principle of defence, take decided steps in opposition. It is therefore our business, from every tie of justice, humanity, and sound policy to put an end to the Indian war, and to encourage the back settlers all in our power. It is from that country that we will be supplied with hemp. The settlers there will never rival us either in shipping or in sailors, nor for ages in manufactures. We will have all their trade without any expense of maintaining them. What more would you require?

While so good an occasion offers as at present of settling everything with so sensible a man as Mr. Jay, the business both of a political and commercial nature ought to be gone into, in an open, liberal and candid manner; which will lay the foundation of future happiness and prosperity between the two countries. Settle a commercial treaty, particularly with respect to the shipping of the two countries. Receive their wheat and provisions on moderate terms, and they will take our

manufactures. Every check on the sale of their wheat etc. will drive them the sooner to manufactures.

2

THE DUKE OF PORTLAND TO LORD DORCHESTER

19 November 1794[1]

. . . The particular care and attention which has been paid to the commercial interests of the two Canadas both as connected with the American States and the Indians, will be well understood and accordingly duly estimated by your Lordship. To reap however all the advantages which may result from those stipulations and at the same time to obviate the temporary difficulties which such of them as relate to our surrender of the posts may occasion are the first objects which will occupy your Lordship's attention.

With this view it will be requisite, I conceive, to use your utmost exertions to satisfy the Indians that provision is made not merely for continuing as heretofore but for increasing without the possibility of interruption our present commercial intercourse with them to the utmost extent to which it may be capable of being carried. Our usual attention to their wants and our liberality in supplying them should for the present be increased[2] and every other means pursued by those who are best acquainted with their disposition and their affairs which your Lordship shall judge most effectual for the preservation of their friendship and for obtaining their peaceable acquiescence in the surrender of the posts, a measure which although dictated by the general justice and sound policy which should govern a great nation yet can neither be easily comprehended by them nor can be expected to be at all agreeable to their present situation and dispositions.

It will also be necessary particularly in Upper Canada that early attention should be paid to the erection of such new posts in proper and suitable situations on our side of the Treaty Line as may facilitate our commercial intercourse with the Indians and which may render the evacuation of those now in our possession particularly those of Detroit and Machilimachanac as little felt as possible when it shall take place.

But the termination of the war between the American States and the Indians especially if effected through our mediation would beyond a doubt not only facilitate beyond all other means the execution of the present Treaty but would materially enlarge and improve the advantages proposed to be derived from it by all parties. . . .

[1] C.O. 43/10. 'Private.' Portland announced the conclusion of Jay's Treaty, 'by which all matters in dispute between this country and the American States are amicably adjusted'.

[2] A year later, on 5 December 1795, Portland told Simcoe that 'this is a moment when a little exceeding in the usual presents given to the Indians is not to be regarded, provided you find it advantageous to His Majesty's interests' (C.O. 42/319).

3

BRITISH PLENIPOTENTIARIES TO THE AMERICAN COMMISSIONERS AT GHENT

19 August 1814[1]

. . . In considering the points above referred to as a *sine qua non* of any treaty of peace[2] the view of the British Government is the permanent tranquillity and security of the Indian nations and the prevention of those jealousies and irritations to which the frequent alteration of the Indian limits has heretofore given rise.

For this purpose it is indispensably necessary that the Indian nations who have been during the war in alliance with Great Britain should at the termination of the war be included in the pacification. It is equally necessary that a definite boundary should be assigned to the Indians and that the contracting parties should guarantee the integrity of their territory by a mutual stipulation not to acquire by purchase or otherwise any territory within the specified limits. The British Government are willing to take as the basis of an article on this subject those stipulations of the Treaty of Greenville subject to modifications which relate to a boundary line. . . .[3]

Great Britain desires revision of the frontier between her North American dominions and those of the United States not with any view to an acquisition of territory as such but for the purpose of securing her possessions and preventing future dispute. The British Government considers the Lakes from Lake Ontario to Lake Superior both inclusive to be the natural military frontier of the British possessions in North America. As the weaker power in the North American continent, the least capable of acting offensively and the most exposed to sudden invasion, Great Britain considers the military occupation of these Lakes as necessary to the security of her dominions. A boundary line equally dividing these waters with a right in each nation to arm both upon the Lakes and upon their shores, is calculated to create a contest for naval ascendancy in peace as well as in war. The power which so occupies these Lakes should as a necessary result have the military occupation of both shores. . . .[4]

[1] F.O. 95/11. The British plenipotentiaries were Lord Gambier, Henry Goulburn, and William Adams.

[2] The second head of the Protocol for the Conference of the 8th and 9th August had made the *sine qua non* of any treaty the extension of peace to the Indian allies of Great Britain and the recognition of the boundaries of their territory as 'a permanent barrier between the dominions of Great Britain and the United States'.

[3] The United States–Indian Treaty in 1795, when Indians received and recognized the protection of the United States in the country south-east of Lake Erie.

[4] The Americans rejected this plan absolutely and the British plenipotentiaries, in order to preserve negotiations, finally dropped the idea of a buffer state.

4

LORD SELKIRK TO J. Q. ADAMS, 22 December 1817[1]

[Baltimore.]

. . . In the present circumstances of the settlement at Red River, it is particularly desirable to open this intercourse without delay, so as to afford an opportunity to my settlers to obtain a supply of cattle and sheep, to replace those which have been destroyed by the lawless partisans of the North West Company. But besides the obstacles which I have already mentioned, I understand there is a peculiar difficulty on the subject of cattle, arising from a clause in an Act of Congress, by which all citizens are debarred from pasturing or driving their cattle on any lands belonging to Indians. It is evident however from the tenor of the enactment, that the purpose of this regulation was to obviate the quarrels, which had frequently arisen from the trespasses of the back settlers;—a danger which is not to be apprehended from the mere passage of a few cattle, on their way to a foreign country.

As my settlement on Red River has been formed entirely on the principles of agricultural improvement, and for the establishment of a civilized population, it cannot be likely to excite any jealousy on the part of the American Government. With respect to the Hudson's Bay Company, from whom I derive my title to these lands, and in whose concerns I am materially interested, I beg leave to observe, that they have always acted on very different principles from the Canadian merchants, who have engaged in the fur trade. They are not mere traders; but as they also hold a valuable grant of lands, their conduct as merchants is naturally influenced by their interest as proprietors. The permanent interest they have in the country, as well as the responsibility of their situation as a chartered body, must always restrain them from the exceptionable proceedings, to which ordinary traders may be tempted by the prospect of immediate gain. The Hudson's Bay Company have always been disposed to promote the progress of the Indians in the arts of civilized life; and have exerted themselves to maintain peace among them. They have never had any intercourse with the tribes within the United States; and it is not their policy to extend their trade beyond the territory which legally belongs to them. The limits which their charter assigns are sufficiently ample; and if the Company be allowed to enjoy their rights in peace within these limits, they will not be disposed to trespass on those of others. As soon therefore, as the boundaries of the British and American dominions in that quarter shall be ascertain [*sic*], I do not apprehend that any cause of collision can remain, between the Hudson's Bay Company, and the traders who may be authorized by your Government to carry on the fur trade within the United States. . .

[1] *State Papers*, Washington: Misc. letters, pp. 179–80. Printed in *Canadian Hist. Rev.*, vol. xvii, pp. 421–3.

5

CONVENTION BETWEEN GREAT BRITAIN AND THE UNITED STATES, 20 October 1818[1]

. . . Art. 1. Whereas differences have arisen respecting the liberty, claimed by the United States for the inhabitants thereof, to take, dry, and cure fish on certain coasts, bays, harbours, and creeks of His Britannic Majesty's dominions in America, it is agreed between the high contracting parties that the inhabitants of the said United States shall have, forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Ramea islands, on the western and northern coast of Newfoundland; from the said Cape Ray to the Quirpon islands; on the shores of the Magdalen islands; and also on the coasts, bays, harbours, and creeks, from Mount Joli, on the southern coast of Labrador, to and through the straits of Belleisle, and thence northwardly, indefinitely, along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company: and that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland, hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce, forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America, not included within the above-mentioned limits: *provided however*, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

Art. 2. It is agreed that a line drawn from the most north-western point of the Lake of the Woods, along the forty-ninth parallel of north latitude,[2] or, if the said point shall not be in the forty-ninth

[1] *American State Papers, Foreign Relations*, vol. iv, p. 406. This Convention, implementing and supplementing the Treaty of Ghent, 1814, was made between Gallatin and Rush for the U.S. and F. J. Robinson and Goulburn for H.M. Government.

[2] The line suggested in the abortive convention of 1807 was based on the

parallel of north latitude, then that a line drawn from the said point due north or south, as the case may be, until the said line shall intersect the said parallel of north latitude, and from the point of such intersection, due west, along and with the said parallel, shall be the line of demarcation between the territories of the United States and those of His Britannic Majesty, and that the said line shall form the northern boundary of the said territories of the United States, and the southern boundary of the territories of His Britannic Majesty, from the Lake of the Woods to the Stony mountains.

Art. 3. It is agreed that any country that may be claimed by either party on the northwest coast of America, westward of the Stony mountains, shall, together with its harbours, bays, and creeks, and the navigation of all rivers within the same, be free and open, for the term of ten years from the date of the signature of the present convention, to the vessels, citizens, and subjects of the two Powers: it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any part of the said country, nor shall it be taken to affect the claims of any other Power or State to any part of the said country; the only object of the high contracting parties, in that respect, being to prevent disputes and differences amongst themselves. . . .

B. WEST AFRICA

6

ZACHARY MACAULAY TO LORD CASTLEREAGH, 8 May 1807[1]

[The Pavement, Clapham Common.]

. . . The British settlements in Africa form at present a very loose and disjointed whole, subjected to great diversity of management and pursuing ends which widely differ from each other. Goree is a military government immediately under the directions of His Majesty, Sierra Leone is at present governed by the Sierra Leone Company by the authority of a charter of justice obtained from the King. Bance Island, a fortified settlement in the same river, is the property of Messrs. John and Alexander Anderson of London who hold it by virtue of an Act of Parliament, and who have hitherto used it as a slave factory.

incorrect belief that it had been accepted in the negotiations between Britain and France for the Treaty of Utrecht.

[1] C.O. 267/24, miscellaneous section. Enclosed in Macaulay to Edward Cooke, 16 September 1808. Z. Macaulay had written to Ludlam, Governor of Sierra Leone, on 4 November 1807 that he had no doubt that the Government would be disposed to adopt 'any plan which we may propose to them with respect to Africa, provided we will but save them the trouble of thinking' (C.O. 267/24). Admiralty instructions following this letter certainly show that Macaulay was not over-confident.

The forts on the Gold Coast, seven or eight in number, are in the hands of the African Company, who receive annually from Parliament the sums required for their maintenance; and who continue a company for the sole purpose of managing these forts, which were originally constructed and have hitherto been supported for the protection and encouragement of the slave trade.

With a view both to the British interests in Africa, and to the improvement of Africa itself, it appears to deserve consideration whether these establishments, as well as any other which may hereafter be formed in Africa, should not be taken under the immediate government of His Majesty. Otherwise it is not likely that any uniform plan of policy can be pursued with respect to that country, nor any liberal and concurrent efforts made to amend the condition of its inhabitants. It was also in that case naturally become a question, whether the different settlements on the coast of Africa should be independent of each other, and subject only to the direct control of His Majesty's Government at home, or whether a Presidency should be established at one of those settlements, under the general control and direction of which the others might be placed. Supposing the latter, which seems the better plan, should be adopted, I should entertain no doubt, for reasons not now necessary to be specified, that Sierra Leone is the best situation for such a Presidency. . . .

[He outlines plans for cruisers to be stationed in West Africa to enforce the abolition of the slave trade, and for treaties to be made with the tribes to prevent that trade. He suggests the encouragement of the growing of rice, cotton, and coffee.]

I have already expressed an opinion that the settlement of Sierra Leone is better calculated than any other for the Presidency of the African coast. Its local advantages are great when compared either with Goree, or Cape Coast Castle, without taking into account that Goree may be given up to France at a peace. The existence also of a colonial establishment at this place together with the possession of a considerable extent of territory will afford facilities for promoting the great object of African civilization, which are enjoyed in no other place on the coast, particularly as the circumstances, which hitherto have chiefly impeded this object will be removed by the abolition of the slave trade, and the transfer of the colony from the Company to Government. The example afforded by the colony of a mild, but firm and well-ordered government, of rational liberty, and of secure and productive industry, would be of almost incalculable importance while the influence which its growing strength and respectability and its growing commercial importance must give it over the neighbouring chiefs, might be exerted in composing their differences, and inducing them to pursue plans of peaceful industry. . . .

The forts on the Gold Coast, if properly employed might be made very important engines of promoting the mutual benefit of Great Britain and Africa. In addition to those which we already possess, it

might be advisable to obtain possession of two or three Dutch forts situated on the same coast, which I apprehend would be a work of little difficulty. If this were effected, we should possess almost the entire control of that line of coast which extends from Cape Three Points to the Rio Volta. It is important here to remark that at this moment the laws of this district of Africa are administered in a great degree by the Governors of these forts, who ordinarily proceed in administering them on the principles not of British but of African legislation. That is to say, the guilt of African criminals is tried, not by the received rules of evidence, but by the application of some ordeal which is regarded, according to [the] effect which it produces, as decisive [of] guilt or innocence. Persons thus found guilty being liable to be sold as slaves, and the Governors of the forts being generally slave traders, it might be presumed that some degree of oppression has arisen from this source. It is obvious however that the power which has been thus employed, and that without being resisted, may be converted into an instrument of great good to Africa; and that the Governors who may now be appointed, being instructed to substitute equitable principles of law, and benevolent maxims of policy, in place of those which have given up under the former system, may by that change alone operate a very considerable amelioration in the civil condition of the inhabitants of a part of the coast which extends from three to four hundred miles in length. . . .

[Much of the success of any plan for West Africa will depend on international suppression of the slave trade.]

7

THE COMMITTEE OF THE COMPANY OF MERCHANTS TRADING TO AFRICA, TO LORD BATHURST, 5 December 1815[1]

. . . The Committee of the Company of merchants trading to Africa, having had under frequent consideration the means of removing the interruption experienced by the British trade on the Gold Coast; of complying with the desire expressed by His Majesty's Ministers to contract the number of forts on that coast; and at the same time to render the whole as efficient as possible, for the great purpose of extending and improving the knowledge of, and commerce with, the interior;—avail themselves of the earliest opportunity of soliciting the attention of your Lordship to the present state of that coast, as they conceive the re-establishment of peace affords an important opportunity of promoting these desirable objects.

Previous to the year 1806 a considerable intercourse existed with the

[1] *Parl. Papers*, 1817 (431), vol. vi, pp. 61–62.

nations of the interior, and particularly the Ashantees, when a war broke out between them and the Fantees, which has not only put a stop to that intercourse, but has desolated the whole coast, and interrupted all trade to the present time.

The King of Ashantee, the sovereign of a great and powerful nation, more civilized[1] than any other with which we are acquainted in that part of Africa, whose dominions and influence extend to a great distance inland, and stretch across the back of the maritime territories in which the British forts are situated, has at all times evinced a strong desire to open a communication and trade with the coast, and particularly with the settlements of this country; but has been uniformly resisted by the Fantees, a people resident on the sea coast, who have an interest in making the trade of the interior pass through their hands. In the course of the war already mentioned, the Ashantees, in the year 1807, marched to the sea-coast to attack the Fantees, when the troops of the former amounted to upwards of 30,000 men, besides followers, well armed and appointed, and were headed by their King; and the British Governor in Chief,[2] having interfered personally as a mediator, he had an opportunity of forming some estimate of the power and character of the Chief and his people.

For several years past, the war in which other neighbouring states have become engaged, has assumed an appearance with no decisive result. The spirit of animosity still exists, and hostilities are continued, whilst all parties are tired of a contest so long protracted; and, according to the opinion of the best-informed persons, the differences between the native powers might be reconciled by the amicable interference of the officers in charge of the British forts, which the present state of affairs seems to invite, and the judicious distribution of a sum of money not exceeding £1,000 in presents; and the friendship of the King of Ashantee secured by obtaining for his subjects a free intercourse with the British settlements and the sea-coast.

The Committee concur in this opinion, but feel that the affair is one of great delicacy, as the negotiation may fail, and the jealousy of the Fantees be awakened; and that it is therefore necessary that the British forts in their immediate vicinity should be put on a more respectable footing, which could be effected by an increase of not more than 100 soldiers, which can be readily procured in Africa from among the Mulattoes born there, in whom every confidence may be placed.

[1] Contrast the earlier opinion (1772) of the relative merits of the Ashanti and the Fanti in J. J. Crooks, *Records relating to the Gold Coast Settlements from 1750 to 1874*, Dublin 1923, p. 37. The Fanti were then 'a people long used to the manners of the Europeans and pretty much civilized: as neighbours far preferable to the Ashantis who are a rude unpolished set of men governed by a despotic tyrannical prince with whom we might find it very hard (if practicable) to live on any terms'.

[2] *George Torrane*, who had been a clerk in the Committee's service since 1785 and a member of the Council from 1790 to 1792, had been appointed Governor-in-Chief at Cape Coast Castle in September 1804. He intervened with the Ashanti in their attack on the fort of Annamaboe in June 1807.

If the measure for renewing the intercourse with the Ashantees could be accomplished, the Committee conceive, that, besides the great commercial advantages that would immediately accrue, arrangements might in a short time be entered into with the King for sending persons into the interior for the purpose of making discoveries in that interesting country.

Respecting the contraction of the British forts, the Committee are of opinion, that it would not be expedient that any extensive measure should at present be adopted. . . .

[Some forts can be given up. Winnebah, however, should be rebuilt.]

The Committee cannot close this representation without observing to your Lordship, that the Dutch forts, which are numerous on the Gold Coast, have at all times been maintained in a manner superior to the British; and that the Government of that nation, so clear and quick-sighted in all matters of commerce, instead of abandoning those settlements in consequence of the abolition of the slave trade, have lately sent out an officer of high rank and distinguished character to take the command of them; and that General Dandels, the officer alluded to, has already communicated to the Committee his readiness to co-operate with them in all measures calculated for the improvement of Africa and the extension of a legitimate commerce with the people of that vast continent.

Having thus stated to your Lordship their views, the Committee have to add, that the grant of Parliament being barely sufficient for the purposes of keeping up the forts at their present establishment, much less for defraying the expense herein stated, however they may be impressed with the importance of the objects, the Committee do not feel that they should be warranted in engaging in them without your Lordship's sanction, which they therefore respectfully solicit.

The additional charges, they conceive, would not exceed £3,000 in the first year, and £2,000 in subsequent years, which might probably at a future period be discontinued. . . .

8

REPORT FROM A SELECT COMMITTEE OF THE HOUSE OF COMMONS ON THE AFRICAN FORTS

26 June 1816[1]

. . . It must be evident from the numbers of them that they are in general very trifling unproductive concerns; and indeed it would appear that most of them have been erected more for the purpose of excluding a rival nation, and at the certainty of loss, rather than from the expectation of any positive good to be derived from a commerce,

[1] *Parl. Papers*, 1816 (506), vol. vii B, pp. 135–7. Earl Compton was Chairman.

which has never been found sufficient to defray the expenses of the Companies engaged in it.

The expense attending the British settlements is understood to be about 24,000*l.* or 25,000*l.* annually; and whether the expenditure of such a sum of the public money produces an adequate return or not. may be worth consideration.

Most of the out-forts being utterly unable to protect any merchant ships (even from a privateer) which might be chased into their road, being so insignificant that they only exist in the country by the good-will of the natives; and having their little trade exclusively in the hands of the Chief (or Governor) cannot be considered in any other light than as small private factories, supported at the public expense, for the sole benefit of the individuals who happen in rotation to succeed to the charge of them.

As to their trade, various causes give to these persons the entire and exclusive command of all that can be had in their vicinity. Being on the spot, and having a perfect knowledge of business, they can take advantage of times, scarcities, etc., and as the natives round the fort are considered under its protection, they are expected in return to carry their trade there in preference to any other market. A ship can have none of these benefits; she must therefore enter the market at a great disadvantage, and find the presence of the British fort more injurious than beneficial; and on the other hand (putting trade out of the question) ships could derive no benefit from these forts, as they could afford no protection.

Neither is the gain to the individual so great as to make the support of such places worth while to Great Britain, in order ultimately to secure the national benefit arising from large commercial returns. It is impossible to ascertain what these returns amount to; but the general profit to the Chief seems to be from 800*l.* to 1,200*l.* a year, exclusive of his salary; and to obtain this benefit from the individual, the public expend a greater sum, the average expense being about 1,400*l.* or 1,500*l.* Were any of the forts to be relinquished, it by no means follows that even the small returns which they now produce would be lost to our commerce, there being little doubt that they would be fully collected by occasional ships.

It is therefore recommended that the following forts be given up for the reasons above stated, to which may be added their great want of repairs:—Succondee, Commenda, Tantum Querry, Winnebah, Pram Pram, Whydah. . . .[1]

The forts of Appollonia, Dixcove, Cape Coast, Annamaboe, and Accra, are sufficient to ensure as much influence to the British name as can be turned to any advantageous account. A part or perhaps the whole of the first year's saving, which would accrue from the reduction above recommended, might be well aplied to the effectual repair

[1] These were minor forts, many of them already in disuse.

of these forts, and to the furnishing them with new ordnance and carriages, of which they are greatly in want. . . .

Considered as a means of checking the slave trade, our forts on the Gold Coast do not appear to be of any further use than merely to prevent its being carried on within their own walls. Outside of that small range, they either have not, or do not exercise, any jurisdiction. . . .

9

INSTRUCTIONS FROM THE COMMITTEE OF AFRICAN MERCHANTS TO GOVERNOR JOHN HOPE SMITH, 1817[1]

The Committee are extremely anxious (and in this repect the wishes of all classes of people in this country go with them) that no exertions should be spared to become better acquainted with the interior of Africa; and we consider the existing state of things to be most favourable for undertaking an exploratory mission into the dominions of the King of Ashantee. If, therefore, nothing shall have transpired in the interim of this dispatch being received by you, to make the measure objectionable, we wish you to obtain permission from the King to send an Embassy to his capital: if granted, you will select three Gentlemen[2] (one of them from the medical department) for that service; and let them be accompanied by a respectable escort, you giving them the fullest instructions for their government. In particular, it will be necessary for them to observe, and report upon, the nature of the country; its soil and products; the names, and distances, and the latitude and longitude of the principal places; and its most remarkable natural objects; the appearance, distinguishing characters, and manners of the natives; their religion, laws, customs, and forms of government, as far as they can be ascertained; and by whom each place is governed. When at Ashantee, they should endeavour to obtain the fullest information of the countries beyond, in each direction; particularly whether any high mountains, lakes, or large rivers are known; and the width, depth, course, and direction of the latter; and whether the water, as well of the lakes as the rivers, is salt or fresh: and how far,

[1] T. E. Bowdich, *Mission from Cape Coast Castle to Ashantee*, Lond. 1819, pp. 5–8. *J. H. Smith* was Governor-in-Chief of the British forts on the Gold Coast. The invasions of the coast by the Ashanti in 1807, 1811, and 1816 had caused disruption in Fanti life and in British trade. The Government had advanced money to aid the Fanti, but had earnestly desired the Committee to send an embassy to the Ashanti to secure peace and extend commerce.

[2] When Frederick James resigned from the leadership of the mission partly through illness and partly through disagreement with his colleagues, the embassy consisted of Thomas Bowdich, William Hutchison, and Henry Tedlie, an assistant surgeon. For the peace negotiated, see Bowdich, op. cit., pp. 126–8. A British consul was to reside at the Ashanti capital, Kumasi. Joseph Dupuis was appointed.

and under what circumstances, white men may travel with safety, especially in a northerly direction. They should collect the most accurate information possible of the extent, population, and resources of the Ashantee dominions, and should report fully their opinion of the inhabitants, and of the progress they may have made in the arts of civilized life. They should be directed also, to procure and bring away (with the consent of the chiefs) any specimens of vegetable and mineral productions they may be able: and to ascertain where and how the natives collect the gold, and the extent to which the trade in that article, and in ivory, might be carried on. It would, we conceive, be a most important advantage, if the King of Ashantee, and some of his chiefs, could be prevailed upon to send one or more of their children to the Cape, to be educated at the expense of the Committee (to be attended by their own servants, if required), under the guarantee of the Governor and Council for their personal safety, and that they should be sent back when required.

Another great object would be, to prevail upon the King to form, and keep open, a path not less than six feet wide, from his capital, as far as his territories extend towards Cape Coast; you engaging on the part of the Committee, to continue it from that point to Cape Coast, which we presume may be done at a very small expense, by means of monthly allowances to the chiefs of such villages as be in that line: upon condition that they shall not allow the path to be overgrown with underwood, or otherwise obstructed.

It may perhaps be found, that high mountains, or a large river, may be not many days journey beyond Ashantee; in which case, if the gentlemen composing the Embassy feel themselves secure in the attempt, they may probably be disposed to proceed so far. . . .

The Gentlemen whom you may select will of course be well advised by you not to interfere with any customs of the natives, however absurd; or in any way to give them offence. And they cannot too strongly impress upon the minds of the King and people of Ashantee, that the only objects his Britannic Majesty has in view, are, to extend the trade with that country; to prevent all interruption to their free communications with the waterside; and to instruct their children in reading, writing, etc. from which, as may be easily pointed out, the greatest advantages must arise to the Ashantees.

10

REPORT FROM A SELECT COMMITTEE OF THE HOUSE OF COMMONS, 25 June 1817[1]

. . . The witnesses[2] who have represented the probability of such increase [of trade with the Gold Coast], have given that opinion upon

[1] *Parl. Papers*, 1817 (431), vol. vi, pp. 6–9. J. H. Smyth was the Chairman.
[2] Most notably Simon Cock, Secretary to the African Committee.

the following suppositions: *1st*, that the pecuniary means afforded by Parliament to the Company should be increased with a view to enable them to establish a regular intercourse with the great interior kingdom of the Ashantees, and for other purposes. *2dly*, that the discouragements upon the imports of African produce should be removed. But, *3dly*, and principally, upon an end being put to the slave trade, which has, since the peace, been revived, and is now carried on to an enormous extent by the Spaniards and Portuguese, and which all the evidence before the Committee concurs in representing as absolutely incompatible with and destructive of the legitimate commerce of Africa. . . .

The increase of the legitimate trade may be considered in two points of view: *1st*, an increase of the existing articles of trade before enumerated: *2dly*, an increase arising from the application of the labour of the natives to the culture of the soil with a view to export. Scarcely anything appears yet to have been attempted for the latter object, the agriculture of the natives being almost entirely confined to articles of the first necessity for their own subsistence, and the cultivation of the Europeans to the limited extent of their own gardens.

It appears, however, from the evidence of persons the best acquainted with that country, with very few exceptions, that the natives would be easily induced to raise and cultivate the articles of tropical produce, to which their climate and soil are suitable, if they had adequate encouragement, by a demand and market for them. . . .

Sir James Yeo in the letter to the Admiralty before referred to,[1] says, 'Our settlements on this (the Gold) Coast, are in a very bad condition, and the people residing in them little better than prisoners to the neighbouring chiefs, who, although they receive pay from the Company, consider it in the light of tribute, and make use of our forts and flags to awe their necessitous neighbours and subjects, towards whom they frequently use the most violent and oppressive conduct'. . . .

5. Your Committee now proceed to the last and most important subject for consideration: viz. the policy which it may be most expedient to adopt in future with regard to these settlements. This subject involves two questions:—*1st*, whether those settlements should be abandoned altogether; and *2dly*, whether, if continued, they should be maintained under the present system: viz. the exclusive government and direction of the African Committee with the aid of Parliament, or whether with a view to economy, to the interests of general trade, and to the ulterior objects of African civilization, a more advantageous system may not be adopted.

[1] 7 November 1816. Yeo had stated that though the Abolition Act had reduced the slave trading, it had not decreased the suffering. It had merely transferred much of the trade into Spanish and Portuguese hands, which had increased the cruelty 'quadruple'.

With regard to the first question; as the entire abandonment of the forts is understood to imply that of the trade also, and as this would not only be a present loss, though to an inconsiderable amount, to the country, but entirely cut up by the roots all chance of extending the existing trade, of opening new sources, and of improving the state of the country, and its inhabitants, by education and civilization, your Committee can by no means recommend this policy to Parliament.

With regard to the second question, your Committee feel more difficulty in deciding upon it. . . .

[The advantages of carrying on trade through a committee of merchants are (1) that the salaries of employees are not charged to the Government but paid in exports; (2) that, in fact, the private trader is not at a noticeable disadvantage.]

From the best consideration which they have been enabled to give to the subject, under the means of information which they possess, they are inclined to recommend that the Governor in Chief should be appointed by Government, with supreme authority extending over the whole of the British settlements on the Gold Coast; that the number of those forts and settlements should be diminished by the disposal or abandonment of such as may, upon strict inquiry, appear not to be of service in a sufficient degree fully to compensate for their expense. That the inferior officers universally, including the chief officers of such out-forts as may be retained, should be appointed by the same authority, and according to the same routine of promotion as at present; subject to the control of the Governor in Chief, with power of suspension by him in cases of misconduct, and of removal by the Government of this country; and that the number of the African Committee be reduced from the present number of nine to six, giving the chairman the casting vote. It is the opinion of your Committee, that by the reduction of some of the settlements and forts a saving may be made, so that not only the remainder may be kept up, but the ulterior objects which your Committee have in view, of promoting the improvement of the country, may be pursued with a very small addition to the present expense to the country. Your Committee cannot conclude their Report without distinctly stating to the House, that a principal motive which induces them to recommend the continuance of an establishment on the Gold Coast, and the aid of Parliament for its maintenance, is the instruction and improvement of the natives of that country, in which but little, if anything, has been hitherto accomplished. As one method conducive to this purpose, they would recommend the establishment of schools at all the settlements which may be retained; and that in the selection of schoolmasters, a preference may be given to the writers and factors, who will become supernumerary by the discontinuance of some of the factories and forts, so far as they may be properly qualified.

From a judicious application of a moderate parliamentary grant, under the immediate direction and superintendence of Government,

and subject to a strict account, either according to the provisions of the Acts 23 Geo. II[1] and 23d of the present King, or to such other as Parliament may deem it expedient to adopt. Your Committee cannot but anticipate the most beneficial effects, when the happy period of the total abandonment of the slave trade shall arrive.

Your Committee cannot conclude their Report, without expressing their confident hope, that Parliament will watch, with unceasing care, the progress made in African civilization under the system suggested by them, or under any other which may now be adopted, and will introduce, from time to time, such alterations as the great objects in view may appear to require.

11

MINUTE OF THE LORDS OF THE TREASURY

15 December 1820[2]

My Lords read a letter from the African Company, dated 22nd September last, relative to the proposed transfer of the Settlements upon the Gold Coast to His Majesty, and enclosing particulars relative to those Forts, and a list of the officers and servants now in the employ of the Company.

My Lords also read a letter from Lieut. Governor Macarthy, of the 16th November 1820, transmitting a copy of the Charter for the Governor of Sierra Leone, and a Memorandum relative thereto.

In pursuance of the several Acts of Parliament before recited, the whole of the British Forts and Settlements upon the Gold Coast of Africa have become vested in the Company created by the said Act of the 23d Geo. 2d., c. 31, and have been entirely governed and managed by officers and servants appointed by them; but the whole expense of such management has, for many years past, been entirely defrayed by sums granted by Parliament for the support of these forts; the said Company having in their corporate capacity no funds whatever, out of which any part of such expenses could be defrayed, and having no beneficial interest in the said Forts.

My Lords also read the Reports of the Committees of the House of Commons of 13 June 1816, and 25th June 1817, appointed to inquire into the concerns of this Company.

Upon a full consideration of this subject, it appears to my Lords, that it will be expedient to submit a Bill to Parliament, for abolishing

[1] 23 Geo. II, cap. 31, was the statute incorporating the Committee of African Merchants when the old Royal African Company surrendered the charter to the Crown.

[2] T. 29/192, pp. 396–7. Printed in J. J. Crooks, op. cit., pp. 134–5.

the Company created by the Act of the 23d Geo. 2d., c. 31, and for vesting all the Forts, and the property and effects of the said Company, in His Majesty. . . .

12

LORD BATHURST TO GOVERNOR CHARLES TURNER, 5 July 1825[1]

. . . I have to acquaint you, that after a full consideration of the present state of His Majesty's possessions on the Gold Coast, and the policy in regard to them which it would be most prudent to pursue, His Majesty's Government have not deemed it expedient to abandon the coast altogether, to which measure your opinion seems in some degree to lean. It is reasonable to expect, that under a better system of management the evils which have been already experienced may not recur, and that some of those commercial advantages which have been anticipated from opening a communication with the interior of Africa may yet be realized, and may be hereafter extended by improving the friendly intercourse which has recently been established with the reigning powers in Soudan and Bornou. Although, however, a general abandonment of our settlements on the Gold Coast has not been considered advisable, it has now been determined to reduce the number of points of which military possession shall henceforth be retained in this quarter to the two most important which appear to be Cape Coast Castle and the Fort of Accra, giving up entirely all military charge of the minor posts along the coast, of the greater part of which indeed for some time past only nominal possession has been enjoyed. . . .

I cannot but anticipate, that when placed on a proper footing with a garrison of 300 men, and by remaining strictly on the defensive, the forts of Accra and Cape Coast Castle will prove sufficiently strong to keep in check any force which may be brought against them by the native powers, or to prevent any annoyance from the neighbouring fort of Elmina, should its inhabitants on any future occasion give colour to complaints similar to those which were brought against them during our late war with the Ashantees. I have to signify to you His Majesty's approbation of your determination to abstain from all interference in the dissensions which appear to prevail among the nations and tribes inhabiting the countries adjacent to the Gold Coast. There is no desire on the part of His Majesty's Government to obtain possession of any territory on the coast beyond that in the immediate vicinity of the two forts which have been named, and no

[1] *Parl. Papers*, 1830 (57), vol. xxi, p. 54. *Major-General Charles Turner*, who had served in the West Indies and in the Peninsula, was appointed Governor-in-Chief of Sierra Leone and its dependencies in June 1824.

advantage can be gained by entering into negotiations with the neighbouring chiefs, which might have such accession of territory for its ultimate object. . . .

13

LORD GODERICH TO GOVERNOR SIR NEIL CAMPBELL, 25 August 1827[1]

. . . You will have the goodness . . . to bear in mind that His Majesty's Government are unwilling to sanction arrangements involving the cession of territory to this country; for, not to mention the political objections which attach to measures of that description, it is impossible to overlook the inconvenience which must manifestly ensue from contracting obligations of alliance with small bodies of people, whose extreme weakness would be perpetually urging them to claim our interference on their behalf, so that eventually we should find our influence with them much less than if we had merely kept up a friendly intercourse with them without promising them anything. . . .

14

REPORT OF COMMISSIONERS OF INQUIRY 29 June 1827[2]

. . . The *expediency* of interfering in the transactions of the natives generally, may be doubted; but as it regards those residing immediately under the protection of the fort the consideration is different, and with respect to them the *right* will hardly be disputed. The British Government continues to pay the rent originally stipulated for by the natives for the ground occupied by the fort: this (which must have been understood to comprehend the distance within range of the guns) includes the town; and as the Government may justly look upon the land which it holds upon these terms as its territory, there appears no reason why the inhabitants should not be looked upon as subject to its laws.

Whatever may be thought of the question of right, it cannot be denied that the power has always been exercised to a certain extent, and there can be little doubt that in proportion as it is exercised will the natives be benefitted. But if the right of jurisdiction do exist, more

[1] C.O. 268/26, pp. 314–15. *Major-General Sir Neil Campbell* had also seen service in the West Indies and in Spain. He was appointed Governor-in-Chief in May 1826, but died just over a year later before peace negotiations with the Ashanti were concluded. He was succeeded by Lieut.-Colonel Lumley of the Royal African Corps.

[2] *Parl. Papers*, 1826–7 (552), vol. vii, pp. 20–21, 31–32.

precise regulations should be established, and more efficient means adopted for carrying it into effect. . . .

Whatever the capabilities or advantages of the Gold Coast are, whether with reference to agriculture or trade, they must be almost nugatory until the re-establishment of peace with Ashantee. Desirable as this object is, it is difficult, under the peculiar circumstances of the contending parties, to foresee by what means, short of the absolute submission of the weaker to the stronger, it can be accomplished, so as to ensure an unrestricted trade with the interior, and restore the confidence necessary to the progress of agriculture. They may dissemble for a time, and profess pacific sentiments, but the rancour of hostility concealed under these appearances, will break forth on all occasions of contending interest, and such will continually present themselves.

As regards the Ashantees, they not only lay claim to the district, already described, as theirs by right of conquest, and to the consequent right of levying tribute customary with them; but find themselves cut off from a beneficial trade by the petty tribes between them and the coast. The extent to which this exclusion is experienced may be inferred from the circumstance of their having been obliged to substitute iron ore for leaden balls in their late action with the allied tribes, when so much depended upon their success. In this point of view it seems unfortunate that, while the interests of the Ashantees and the British with reference to trade are the same, the latter should be so much identified with those whose motives and objects are at variance with both. The principal obstacle to an extended trade with the interior is formed by the present allies of the British. Their object is to throw every impediment in the way of direct intercourse, in order that they may become exclusively the factors of each party and impose upon both. Formerly those tribes were disunited and weak; but they have been united by the policy of the British, and in proportion as they feel their strength, will the barrier which they oppose be effectual in restricting the trade. If this be the case, it would follow that the British have now only the choice of withdrawing their support from those with whom they have latterly been united, or of relinquishing the hope of extended commerce.

Without attempting to give an opinion as to the policy or expediency of the measures pursued upon the coast at the commencement of the present war with Ashantee, it is proper to state that it appears to have been considered from the first as altogether a British war, and every exertion was made to induce the various tribes to unite in the undertaking, with the solemn assurance that they should not be abandoned until the conclusion of a peace, in which their interests would be consulted and their safety guaranteed. It would seem, however, that the natives took this assurance in a more comprehensive sense than could have been intended; and consequently

assumed a right of judging as to the manner and time of offering terms to the enemy. So far was this feeling carried, that on General Sir Neil Campbell's arrival on the coast, soon after the action at Dodawah, several of the chiefs not only refused to be parties to any pacific negotiation, but absolutely adopted measures to frustrate the endeavours made by the General to open a communication with Ashantee. Their avowed reason for this opposition was an apprehension lest the Ashantees (being incapable of comprehending the motives of humanity which dictate a desire for peace) would construe any overture made with that view, either as an acknowledgment of past defeat, or dread of future hostility, and therefore rise in their demand, or at best subscribe to a hollow truce merely till it should suit their purposes to break it. An opinion of this kind being prevalent amongst the merchants, may have been sincerely entertained by some of the allied chiefs; but there is reason to suppose that the most influential of them were actuated in their opposition to overtures of peace by personal motives rather than by any regard for the general welfare. . . .

Many circumstances might be cited to justify an inference that power only is wanting to some of the allied tribes to render them as despotic and rapacious as those to whom they are now opposed. This would be the result of their union, and if divided they can never successfully cope with the Ashantees. . . .

15

GOVERNOR HUGH LUMLEY TO THE KING OF ASHANTI, 10 December 1827[1]

Cape Coast Castle.

The Governor in Chief of His Britannic Majesty's possessions on the Western Coast of Africa, on the part of His Majesty the King of England, &c. &c. &c. To the King of Ashantee, sends greeting:

This letter will be delivered to you by a special messenger of mine, who will also deliver the terms upon which peace will be granted to you.

You must see the necessity of complying, with as little delay as possible, with the terms offered to you, which are both safe and honourable.

When my sovereign, the King of England, makes peace with a nation, former offences are forgotten, and you will find that the King of England is as kind and just to His friends as He is (under the protection of God) terrible to His enemies. As a proof of His present goodwill towards you, I have ordered all prisoners of your people to

[1] *Parl. Papers*, 1865 (412), vol. v, pp. 436–7.

be set at liberty, with leave to return to their country and friends. Of this your messengers will inform you. . . .

I have also to make another request. When your people make custom they kill persons who have done no crime; now, if you would abolish this cruel practice, your name would become greater than if you gained 20 battles, and you would get much favour in the eyes of the King, my master. If you cannot do this at once, because it would offend your people, then let it be done by degrees, and after some time your people will be pleased and rejoice.

I again request that you will speedily send back the messengers; and I bid you farewell. . . .

16

R. W. HAY TO GEORGE BARNES, ROBERT BROWN AND MATTHEW FORSTER, 30 October 1828[1]

GENTLEMEN,

I am directed by Secretary Sir George Murray, to acquaint you that he has had under his most attentive consideration the several papers and communications which have been successively received from you, as well as from the Gold Coast, upon the subject of the measures which it may be proper to adopt for the security of British trade, and for the protection of British residents in that quarter, in consequence of the determination to which His Majesty's Government have come of withdrawing the public establishments and garrisons from the forts of Cape Coast Castle and Accra; and I am further to acquaint you, that Sir George Murray is disposed to recommend that these forts be delivered over to the merchants residing there, and held by them under the following conditions; viz.

1. That the forts of Cape Coast Castle and Accra shall continue to be dependencies of the Government of Sierra Leone.

2. That British law shall consequently continue to be in force in the said dependencies.

3. That the affairs of the forts shall be chiefly regulated by you as a committee, or by a committee of those merchants of London, who shall be chosen by His Majesty's Government, as often as occasion may require.

4. That five of the resident merchants, whose names may be approved by the Secretary of State, upon the recommendation of the committee of London merchants, be empowered to form themselves into a counsel of government according to such rules and regulations

[1] *Parl. Papers*, 1830 (57), vol. xxi, pp. 60–61. *George Barnes*, *Robert Brown*, and *Matthew Forster* were leading merchants on the Gold Coast. The forts had been handed over to the Company in June 1828.

as you or the committee of merchants for the time being, shall prescribe to the council, for the purpose of regulating the external and local affairs of the forts; and moreover, that they shall be appointed justices of the peace, and empowered to form among themselves a court for the trial of all offences, not amounting to felonies and misdemeanours; and that the said justices be also authorized to exercise all such powers as may be legally conferred upon them, with a view to the preservation of the peace of the dependencies, and to the protection thereof against assault or rebellion, and for the repression of the slave trade within the limits or influence of the forts, it being understood that all crimes and misdemeanours committed within the limits of those forts shall be cognizable and punished by the courts of Sierra Leone.

5. That in order to enable the merchants residing at Cape Coast Castle and Accra to provide the means of regulating the affairs of the forts, and to maintain the buildings in repair, and to provide a sufficient garrison for their defence, an annual sum not exceeding four thousand pounds shall be placed at the disposal of you or of the committee of London merchants for the time being, on behalf of the merchants of Cape Coast Castle and Accra, from the 1st of July of the present year, it being understood that the merchants residing in the forts or under the protection of the forts, shall be bound to keep them in repair, and carefully to preserve the guns and stores which have latterly been made over to them.

6. That the forts or harbours of Cape Coast Castle and Accra shall be open to all vessels without payment of any duty whatever.

7. That the money which may be voted by Parliament, in conformity with the recommendation of His Majesty's Government for the maintenance of the forts, shall be appropriated under your direction, or that of the committee of London merchants for the time being, and duly accounted for at the expiration of every year to His Majesty's Principal Secretary of State for the Colonies, subject to the revision of the Lords Commissioners of His Majesty's Treasury; and that such account be accompanied by a detailed return of the origin, quantity and value of all goods, distinguishing British from foreign, which may be imported into the forts of Cape Coast Castle and Accra in the course of the year, and of the quantity and value of African produce, which may be exported therefrom in British or foreign vessels, separately.

8. That the amount of the grant on account of the forts, for which application may, from time to time, be made to Parliament, shall in future be fixed by His Majesty's Government, after examining the reports from the coast respecting the state and value of the trade.

9. That although the transfer of the forts is to be considered as completely exempting His Majesty's Government from any further

charge on account of them, it is to be expressly understood that it will be encumbent on yourselves and any further committee that may be chosen to lay before His Majesty's Government copies of such rules as it may be intended to lay down for the regulation of the establishments at Cape Coast Castle and Accra, and for ensuring the appointment of fit and proper persons at those places; and that no rules, regulations or appointments, made by you or any future committee for such purposes, shall be considered valid until they have received the formal sanction of His Majesty's Government.

Upon your signifying in writing your acceptance of these conditions laid down in the articles before mentioned, Sir George Murray will be prepared to take the necessary measures for giving full effect to this agreement. . . .

17

TREATY OF PEACE WITH ASHANTI

27 April 1831[1]

We, the undersigned—namely, the Governor of Cape Coast Castle and British Settlements, on the part of his Majesty the King of England; the Princess of 'Akianvah,'[2] and the Chief 'Quagua,' on the part of the King of Ashantee; 'Aggery,' King of the Cape Coast; 'Adookoo,' King of Fantee; 'Amonoo,' King of Annamaboe; 'Chibboe,' King of Denkara; 'Ossoo Okoo,' King of Tufel; 'Aminniee,' King of Wassaw; 'Chibboo,' King of Assin; the Chiefs of Adjumacon and Essacoomah, and the other Chiefs in alliance with the King of Great Britain, whose names are hereunto appended—do consent to, and hereby ratify the following Treaty of Peace, and of free commerce between ourselves and such other Chiefs as may hereafter adhere to it:—

(1). The King of Ashantee having deposited in Cape Coast Castle, in the presence of the above-mentioned parties, the sum of 600 ounces of gold, and having delivered into the hands of the Governor two young men of the royal family of Ashantee, named 'Ossor Ansah' and 'Ossoo In Quantamissah', as security that he will keep peace with the said parties in all time coming, peace is hereby declared betwixt the said King of Ashantee, and all and each of the parties aforesaid, to continue in all time coming. The above securities shall remain in Cape Coast Castle for the space of six years from this date.

(2). In order to prevent all quarrels in future which might lead to the infraction of this Treaty of Peace, we the parties aforesaid have

[1] *Parl. Papers*, 1865 (412), vol. v, p. 418. Also printed in J. Crooks, op. cit., p. 262.

[2] The Princess had been captured at the battle of Dodowa by a Fanti, and was employed by Maclean as intermediary with the King of Ashanti.

agreed to the following rules and regulations for the better protection of lawful commerce:—

The paths shall be perfectly open and free to all persons engaged in lawful traffic; and persons molesting them in any way whatever, or forcing them to purchase at any particular market, or influencing them by any unfair means whatever, shall be declared guilty of infringing this Treaty, and be liable to the severest punishment.

Panyarring, denouncing, and swearing, on or by any person or thing whatever, are hereby strictly forbidden, and all persons infringing this rule shall be rigorously punished; and no master or chief shall be answerable for the crimes of his servants, unless done by his orders or consent, or when under his control.

As the King of Ashantee has renounced all right or title to any tribute or homage from the Kings of Dinkara, Assin, and others formerly his subjects, so, on the other hand, these parties are strictly prohibited from insulting, by improper speaking or in any other way, their former master, such conduct being calculated to produce quarrels and wars.

All 'palavers' are to be decided in the manner mentioned in the terms and conditions of peace already agreed to by the parties to this Treaty.

Signed in the Great Hall of Cape Coast Castle, this 27th day of April, 1831, by the parties to this Treaty, and sealed with the great Seal of the Colony in their presence.

GEORGE MACLEAN, Governor.[1]

18

MESSRS. BARNES, BROWN, AND FORSTER TO R. W. HAY, 25 July 1831[2]

. . . You have already been informed by Mr. Forster, one of our Members, that the President and Council at Cape Coast Castle had at length succeeded in re-establishing the peace of the Gold Coast;

[1] *Lieut. Maclean* had been aide-de-camp to Campbell and private secretary to Lumley. In 1830 he had been appointed President (not formally Governor) of the Council of Cape Coast Castle. Eleven years later a Select Committee paid him the following tribute: 'We fully admit the merits of that administration, whether we look to the Officer employed, Captain Maclean, or to the Committee under whom he has acted, which, with the miserable pittance of between 3,500 £. and 4,000 £. a year, has exercised, from the four ill-provided Forts of Dixcove, Cape Coast, Annamaboe, and British Accra, manned by a few ill-paid black soldiers, a very wholesome influence over a Coast not much less than 150 miles in extent, and to a considerable distance inland; preventing within that range external slave trade, maintaining peace and security, and exercising a useful though irregular jurisdiction, among the neighbouring tribes, and much mitigating and in some cases extinguishing some of the most atrocious practices which had prevailed among them unchecked before.' *Parl. Papers*, 1842 (551), vol. xi, p. iv.

[2] *Parl. Papers*, 1865 (412), vol. v, p. 437.

and we have now the pleasure of transmitting to you, for the information of Viscount Goderich, a copy of the treaty and agreement entered into with the King of Ashantee by the British local authorities, and the neighbouring chiefs, which we hope will meet his Lordship's approbation.

You will perceive that, by this treaty, the trade with the Ashantees is placed upon a more favourable footing than it has been at any former period, as they have a free communication secured to them with the sea, without interruption by the intermediate tribes, who have hitherto required that the trade from the interior should pass through their hands. The establishment of this free intercourse was for above half a century the great object both of the Kings of Ashantee and of the late African Committee; but they were always foiled in it by the neighbouring chiefs.

You will also observe that a clause has been introduced to put an end to the barbarous system of *panyarring*,[1] by which the whole country has, from time immemorial, been kept in a state of constant petty warfare. We need not dwell upon the great importance of this article to the interests both of trade and humanity. We hope that the local Government will be enabled to preserve the influence necessary to give effect to it. . . .

C. SOUTH AFRICA

19

PROCLAMATIONS BY GOVERNOR LORD MACARTNEY, 20 May and 27 June 1797[2]

20 May 1797

. . . Whereas representation has been made to me, that upon a report of the Bosjesmen or wild Hottentots having plundered the inhabitants dwelling near the Hextinier on the side of the Bockeveld, in the district of Drakenstein, of a considerable quantity of their cattle, the landdrost of Stellenbosch had ordered an armed party of the inhabitants to assemble, and, under the command of a field-wachtmeester, to endeavour to recover the cattle that had been taken away; but that then, and in frequent instances of late, the greatest indifference and neglect of these commands had been shown, to the detriment of good order, and the evident inconvenience and danger of the well-disposed and industrious inhabitants.

[1] The practice of robbing traders and selling them; or, more particularly, when a man was in debt, of seizing one of his fellow townsmen as a security until the latter's family exerted sufficient pressure to force the debtor to fulfil his obligations.

[2] *Parl. Papers*, 1835 (50), vol. xxxix, pp. 52–53.

I have therefore judged it expedient and necessary to authorize the landdrosts[1] and magistrates of the several districts of this colony, and do by these presents authorize and empower the said landdrosts and magistrates, each within their district, to order a party of the inhabitants to arm, assemble and take the field against the wild Bosjesmen at all times when such an expedition shall appear requisite and proper; and I do by these presents enjoin and command the inhabitants so called upon, to pay due and immediate obedience to the orders of the field wachtmeesters, or other persons appointed by the landdrost or magistrates to command the said party, and vigilantly to assist in repelling or attacking the wild Bosjesmen, run-away slaves, or other depredators of private property and disturbers of the public peace; and although the interest of the persons called upon to act in defence of their property against the savage and common enemy should of itself sufficiently excite them to pay ready and cheerful obedience to commands issued for their own safety and welfare, still, instances to the contrary having happened, I have judged it expedient and proper to give this public notice of the foregoing authority and instructions given to the landdrosts, and by these presents to warn and command all and every one of the inhabitants of this colony, when thus legally called upon, to pay immediate and cheerful obedience, as they shall answer to the contrary by fine or such other punishment as has been usual under the former government, and the nature of the crime shall appear to require. . . .

27 June 1797[2]

. . . Whereas the unlimited intercourse between the people of this colony and the Caffres occasions many serious inconveniences; to obviate which, I have directed the landdrost of Graaff Reynet not to suffer any Caffres henceforth to pass and repass the established limits of their territory, without being provided with badges of authority so to do, or their being provided with a passport signed and sealed by the said landdrost; and in order the more effectually to obviate the inconveniences resulting from the present state of intercourse, I have judged it expedient to require, that all the inhabitants who have in

[1] The *landdrosts* were the chief representatives of the central government in their districts. They visited each ward or *fieldcornetcy* annually. They guarded personal and property rights, encouraged industry and education, received revenue, recorded land grants, and dealt with petty crime. In each district six *heemraden* chosen from among the most respectable burghers acted with the *landdrost* in a court which had powers in matrimonial cases, real estate, boundaries, &c.

[2] In a further Proclamation, dated 14 July 1798, Macartney delimited a boundary between the inhabitants of Graaff Reinet and the Kaffir tribes. 'In consequence', it is stated, 'of such limits not being regularly ascertained, several of the inhabitants of the more distant parts of this settlement have united in injuring the peaceful possessors of those countries, and under pretence of bartering cattle, reduce the wretched natives to misery and want, which at length compels them to the cruel necessity of having recourse to robbing, and various other irregularities, in order to support life' (ibid., p. 416).

their service, or in any other manner harbour any Caffres, shall, within the space of twelve months, liberate and discharge the same, and provide themselves with other servants. . . .

20

MAJOR-GENERAL FRANCIS DUNDAS TO GOVERNOR SIR GEORGE YONGE, 20 February 1800[1]

Rondebosch.

[General Dundas gives an account of the frontier insurrection at Graaff Reinet. 150 insurgents had surrendered to Brigadier-General Vandeleur without fighting in April 1799, and 20 of the ringleaders were still in confinement. Resenting the conciliatory attitude towards the Kaffirs of the Landdrost, Maynier, they had defied his authority. These disorders had been followed by a rising on the part of the Kaffirs and Hottentots living within the eastern frontier of the colony, and many Boer farms in that region had been attacked and plundered. Previous to the British capture of the Cape in 1795, the Dutch authorities had extended the frontier of the colony eastward to the Great Fish River, and General Dundas ascribes the present attack to 'the violent and injudicious attempts' that had been made to drive the Kaffirs over that river.]

. . . The attention of Mr. Maynier[2] has been directed to [do justice to Hottentot and Kaffir rights] since the conclusion of the peace, and his Instructions consist in the following points.

1st. To endeavour to convince the Hottentots and Caffres that it is the intention of His Britannic Majesty's Government to alleviate the sufferings of the former, and to prevent in future the injustice which upon many occasions has been done the latter on the part of the farmers in their dealings with them.

2ndly. To see that a Register of the Hottentots—men, women and children who are employed in the service of the different farmers—is established and kept at the Drostdy by the Landdrost in which is to be specified the names of the parties, farmer and Hottentot, with the age, condition and term of service of the latter, and the Landdrost is likewise instructed not to suffer with impunity any acts of violence or cruelty as have been usual on the part of the farmers towards the Hottentot.

3rdly. As the native Hottentots possess no property in the country, having been deprived of their cattle and lands by the European settlers

[1] *R.C.C.*, vol. iii (1898), pp. 53–57. *Major-General Francis Dundas* had served in America and the West Indies before being appointed to command at the Cape in 1796. He acted as Governor from Macartney's departure in November 1798 till Sir George Yonge's arrival in December 1799. *Sir George Yonge* had been Secretary of State for War from July 1782 to April 1783, and was appointed Governor of the Cape of Good Hope in 1799. He quarrelled with General Dundas and, when recalled in 1801, was replaced by him. Dundas remained as Governor until the restoration of the Cape to the Dutch in 1803.

[2] *H. D. Maynier* was landdrost and resident commissioner for the districts of Swellendam and Graaff-Reinet. General Dundas considered the colony indebted to his courage for the restoration of tranquillity.

in Africa, they have no means of procuring subsistence at present unless at the houses of the country people, therefore Mr. Maynier is employed in persuading as many as possible of the runaway Hottentots to return to the service of the farmers under the protection or guarantee of the Register with the exception of a few of the Hottentot captains whose individual safety would be endangered by returning to the Boors, as they have become particularly obnoxious to them; therefore Mr. Maynier has been instructed to point out to Government such unoccupied plantations or grounds as can with propriety be appropriated for the use and accommodation of the Hottentot captains with their adherents, it having been likewise desired that they may be at the outset supplied with such articles as they stand in essential need of to enable them in future to provide themselves with provisions and necessaries.

4thly. With respect to the Caffres on this side the Fish River, Mr. Maynier has been directed to allow them to remain at their kraals on the banks of the Sunday and Boschemesmans Rivers or in other words in the situation in which we found them, provided however that they do not molest the Boors dwelling in their neighbourhood, and as it has been hitherto experienced that the Caffres are faithful to their engagements, if not attacked, there is no reason to apprehend from the Caffres on this side the Fish River a renewal of hostilities.

5thly. The residence at this time of a few of the disaffected Dutch families consisting of nine or ten with the great Caffre nation on the other side the Great Fish River where they fled to avoid the troops under Brigadier-General Vandeleur, is a matter of considerable importance to the colony, as it cannot be doubted that should any war take place with the great Caffre nation it will take its origin from them; consequently Mr. Maynier has been desired to use his best endeavours for withdrawing those people out of the Caffre country, and by a free pardon for past offences, but on renewal of the oath of allegiance, to induce them to return into their own country. . . .

[Arrangements will be made to compensate loyal Dutch farmers for property that has been destroyed during the late depredations.]

9thly. As being a matter of the greatest public importance Mr. Maynier has already been employed to strengthen and secure a good understanding with the Caffres and Boschesmen [Bushmen] in general, and the great Caffre nation in particular, having paid one visit before my departure to Guyka [Gaika] their King[1] for that purpose. As it is in the power of the savages to disturb and distress the

[1] Lord Charles Somerset, contrary to Bantu tradition, recognized Gaika as paramount chief of the Xosas (or Kaffirs) in 1817 as a measure to check Kaffir raids. In 1819 he had to go to Gaika's aid and made a verbal treaty with him recognizing the Great Fish as the boundary of the colony, but leaving the territory between the Great Fish and the Keiskamma (save for Fort Willshire and for the ill-defined Chumie valley which Gaika was permitted to retain) as a 'Neutral Belt', free from Kaffir and European settlement. This soon became regarded as Ceded Territory.

country, it is certainly convenient for the colonists to be at peace with them, but I consider their friendship to be above all things at present the true interest of the British Government.

10thly. As all the contests and disputes which have taken place between the Caffres and the people of the colony have originated in an illicit trade for cattle carried on under circumstances of much injustice on the part of the Boors, it will be necessary for Government to enforce the laws already existing relative to the Caffre intercourse with the inhabitants or to enact new ones upon that subject, therefore it has been recommended to Mr. Maynier to point out or recommend some plan to Government at the Cape, by means of which an exclusive trade with the Caffres, if necessary, for cattle may be established with the sanction or under the superintendency of the Agents of Government.

11thly. The events which have taken place in the district of Graaff Reinet having evinced the necessity for the presence of the troops in that quarter in order to awe the turbulent inhabitants and for supporting the Civil Magistrate in the execution of his office, a Post has therefore been established near the landing place on the coast of Algoa Bay named Fort Frederick. . . .

The confidence in and affection of the Caffres for our Government have been certainly lessened by late events, but I am of opinion a wise and prudent system of conduct may be expected to remove their prejudices and reconcile them to us. . . . The agitation into which the minds of the different descriptions of people in the district of Graaff Reinet have been lately thrown cannot be suddenly repressed, and possibly some of the Hottentots will continue to be guilty of crimes or for a time may commit outrages, nevertheless a formal warfare with them ought also to be avoided. . . .

21

LIEUT.-COLONEL RICHARD COLLINS TO GOVERNOR LORD CALEDON, 6 August 1809[1]

Cape of Good Hope.

. . . I consider as a maxim of the first importance to the colony of the Cape of Good Hope, that all intercourse between the settlers and the Kaffres should be scrupulously prevented, until the former shall have increased considerably in numbers and are also much more advanced in arts and industry. The efforts of philanthropy may then, I hope, be safely and usefully exerted for the advantage of that people;

[1] *Parl. Papers*, 1835 (50), vol. xxxix, pp. 46–53. Printed in *R.C.C.*, vol. vii (1900), pp. 99–106. *Lieut.-Colonel Collins* had made a journey on the eastern frontier as Commissioner for Graaff Reinet and Uitenhage. He made this report on his return. *The Earl of Caledon*, the first civil Governor, was at the Cape from 1807 to 1811.

but they would now, I fear, be productive of great inconvenience and danger. In consequence of these opinions formed by much observation and reflection, it appears to me that the steps necessary to be taken for the permanent tranquillity of the eastern districts are to oblige all the Kaffres to withdraw to their own country, to oppose insurmountable obstacles to their return to the colony, and to remove every inducement to their continuance near the boundary. . . .

In some of the despatches which I have had the honour to address to your Excellency, I stated my opinions upon the force necessary for the removal of those people, and respecting the manner in which it should be employed. Your Excellency must have observed that I placed much reliance on the exertions of the farmers, and indeed I cannot help thinking that on this service they would be considerably more useful than regular troops. They are well acquainted with the country; are excellent marksmen; are accustomed to bear fatigues and privations, and are provided with horses fit for all the purposes of irregular cavalry, without being subject to the disadvantages of requiring stabling and dry forage.

Independently of the foregoing considerations, there are other reasons, perhaps not less weighty, to prefer the farmers to regular troops. The Kaffres are always prepared for war, and it would not only be impossible to spare the military force necessary to guard the frontier at all times against their attacks, but might be inconvenient, as has already happened, even to detach troops on any particular occasion when they might be wanted. The consequences would be, that the inhabitants, who had been accustomed to look up to the military as their greatest support, would lose all confidence when deprived of their assistance; and that the Kaffres, no longer opposed by the force which had been principally employed against them, would increase in confidence and enterprise. If this reasoning is just, the farmers should be made the principal instrument of hostility against that people; but I by no means think that they should be the only one. . . .

The facility with which the Kaffres have always entered the colony may, I think, be principally attributed to the weakness of the population of the eastern frontier. The system of granting farms of such considerable extent, necessary perhaps in some parts of the settlement, is exceedingly impolitic in this particular district. When a line of nearly 100 miles does not present a resistance of more than one-third of that number of inhabitants, it is not to be wondered that little respect should be paid to it. It is only surprising that the settlers should have been enabled so long to remain in any part of it, in the vicinity of a numerous people, continually endeavouring to encroach upon their possessions.

In re-occupying the country near the mouth of the Great Fish River, I conceive that it should be given out in small portions, equal

to the general extent of places held in fee simple, which is, I believe, 120 acres. I do not, however, mean to advise that these places should be granted in perpetuity, because it would be particularly necessary that government should at all times be enabled immediately to remove from this neighbourhood any person who might render himself obnoxious. But I think that the rents of these lands should be so inconsiderable as to be regarded more as an acknowledgment of tenure than as a source of revenue. If such encouragement were not held out, it would be impossible to procure inhabitants for this part of the country, under the dread of exposure to the attacks of savages, and of conviction of being enabled to gain a subsistence only by industrious habits.

The country on the right bank of the Great Fish River, from the mouth of that stream to the place where it receives the Little Fish River, would be fully protected by this formidable barrier; but the attention of the Kaffres would then be entirely drawn to the district of Agter Bruintjes Hoogte, where the farmers occupy loan places of the usual extent, and where they are consequently placed at the distance of three miles from each other.

There appear to be only two ways of meeting this difficulty, which are, either by dispossessing the present occupiers of farms in that quarter, and granting them lands in the same manner as has been proposed for those situated to the south of them, or by extending the boundary. Your Excellency would naturally feel much averse to depriving men of possessions which they have held under many disadvantages during a period of 40 years. . . .

On inspecting the chart, it would appear that any extension of boundary to the east should be carried at least as far as Kat River. When I first contemplated the subject I was of this opinion; but, from local inquiries, I learned that the land between that stream and the Konaba, although of the first quality, is fit only for pasturage, in consequence of being badly watered, and that it has also the disadvantage of being in many parts covered with underwood. The country situated between Agter Bruintjes Hoogte and the Konaba River abounds in excellent fountains. The soil is good, and the timber growing on the mountains that border it on the north is superior to any within the colony. . . .

The loss of this part of their territory would occasion no inconvenience to the Kaffres, for they have not a single hut in its whole extent; and they have always been averse to inhabiting it, on account of its being an open country, a circumstance that would enhance its value as a colonial frontier possession. I do not think that much objection would be made by that people to its occupancy, but they would at all events be easily induced to transfer their right to it for an adequate payment in cattle. The greatest obstacle towards effecting these arrangements would, I think, arise from the difficulty of

acquiring the increased number of inhabitants necessary to fill up the frontier. Supposing the tract near the mouth of Great Fish River, and that proposed to be annexed to the colony, to be altogether about 1,200 square miles, it would require above 6,000 settlers to people it. To look for all these people within the colony were useless; and indeed I conceive it would be very desirable that a proportion of Europeans should be allotted for that purpose. . . .

The most certain means of preserving peace between the colonists and the Kaffres would be to convince the latter of the superiority of our power, and of our being not less determined than able to punish any aggression on their part. . . .

In concluding a treaty with the Kaffre people, it would be very advisable to stipulate that their kraals should be withdrawn to their ancient territory, which is beyond the Keiskama, and to require that, although the country situated between this stream and the colonial boundary should be considered and respected as their territory, yet that they should not enter it except for the purpose of hunting.

The continuance of the Kaffres within or near the boundary has, I think, been occasioned in a great degree by the facility thereby afforded them to trade, beg, and plunder. By the proposed arrangements respecting the frontier, the last inducement for their remaining in the neighbourhood will be removed, for the new inhabitants can have but very few cattle. . . .

The foregoing observations have been offered as suggestions for the adoption of a permanent line of policy with regard to the Kaffre people. They are, in my mind, the only means that can restore and secure safety and order in the eastern districts.[1]

22

REPORT TO GOVERNOR SIR JOHN CRADOCK OF THE COMMISSION OF CIRCUIT FOR THE DISTRICTS OF GRAAFF REINET, UITENHAGE, AND GEORGE, 1813[2]

. . . . . .

4. *The Caffres.*

. . . The Commission . . . had the satisfaction to see that the territories of the colony have now been entirely evacuated by those Caffre tribes who for such a length of time have had possession of a fruitful

[1] Collins went on to comment on the northern frontier, to consider the potentialities of the various frontier districts for agriculture and settlement, and to make suggestions on communications and boundaries (see *R.C.C.*, vol. vii, pp. 113 ff.).

[2] *R.C.C.*, vol. ix (1901), pp. 79–81. P. L. Cloete and L. C. Strubberg were the Commissioners and G. B. van Blokland their secretary. Strubberg died before the report was completed.

part of the same; through which the Commission was enabled now to travel through those places with safety. . . .

In the opinion of the undersigned the most certain means of rendering the incursions of the Caffres difficult, and of curbing their ravages, would be to people the Zuurveld, which cannot be better effected on the part of Government than by granting of lands there; to treat of the manner in which those grants should be made is not the task of the undersigned; but however they cannot avoid remarking to your Excellency that in a district where the breeding and grazing of cattle must constitute the chief subsistence of the inhabitants, extent of pasturage is requisite, and small grants in property will not answer the intention.

For the rest, although the prohibition not to pass the Great Fish River is in general very useful and necessary in order to cut off the communication with the Caffres, exceptions however should be made when the Caffres may steal cattle and escape with them over the same, and consequently get them into their possession with security; in this case the pioneers or the commandos should be at liberty to pursue them and to pass the river towards obtaining their stolen cattle back, provided that as soon as they gained their object they should return. This would generally be attended with the wished for success, and would probably tend to discourage the Caffres from plunder, as they, seeing that they could not enjoy the fruits thereof, would lose all inclination of making attacks, while at the same time they could be made to feel the danger of being driven over the *Kat River*, in case they did not discontinue their incursions and robberies, which has been described to the undersigned as a better line of boundary than the Great Fish River. . . .

23

INSTRUCTIONS TO JOHN MELVILLE ON HIS APPOINTMENT AS GOVERNMENT AGENT AT GRIQUA TOWN, 21 March 1822[1]

SIR,

His Excellency the Governor having taken into his consideration the repeated statements which have been brought before him of the dissensions which have prevailed among the Griquas, and of their dissatisfaction at the conduct of the heemraden appointed by the Earl of Caledon, when Governor of this colony, has come to the resolution of accepting your offer, to proceed thither to reside at that

[1] *Parl. Papers*, 1835 (50), vol. xxxix, pp. 211–12. Signed by the Colonial Secretary, Christopher Bird. The Griquas were a people of mixed European and Hottentot race collected from wandering tribes by L.M.S. missionaries such as Anderson, and induced to settle near the junction of the Orange and Vaal rivers to the north of the colony.

station, as agent from this Government to tribes who have invariably been considered as dependent on this colony. . . .

[The work of the London Missionary Society among the Griquas is to be encouraged.]

It is his Excellency's desire to interfere as little as possible with the customs which the Griquas have established among themselves, and by which they at present regulate themselves, as it is his desire to introduce order gradually, and more by recommendation than enactment. It will, therefore, be advisable that you should gradually make yourself master of their customs, and reduce them to writing under their particular heads, and transmit a copy of them for his Excellency's information; this will give you an opportunity of discussing with the heemraden the subject of their internal policy, when you may recommend the adoption of such of the colonial regulations as shall appear to you to be appropriate; it will, for example, be extremely desirable that they should be advised to occupy their lands under well-defined boundaries established by beacons.

The heemraden will naturally not permit any persons to reside within the Griqua territories who do not conform to their established customs and regulations; nor are you, on any pretext, to permit colonists or Europeans to establish themselves in these parts without special permission from this Government; and you will be pleased to make the earliest communication to this office in case of any attempt to deviate from this instruction. It will be for the mutual advantage of all parties if you can persuade the Griqua people to establish an intercourse with the Bosgesmen, similar to that which has been established in the Graaff Reynet district by the magistracy there. By this intercourse, which partially provides for the necessities of that unfortunate race of people in times of scarcity, all excuse is removed for their acts of plunder and outrage; and thus, if such occur after the establishment of it, the marauders should be pursued as is customary, by colonial commandos. Assuming that the limits of the Griqua country and possessions are regularly defined, there remains no doubt but that all tribes residing within them should be considered subject to the laws of the Griquas, whether they be Boshuannas, Corrannas or others; and that any excesses, particularly murders, should be forthwith punished, under the authority of the heemraden, according to their own regulations.

The intercourse between the Griquas and the colony should be confined as much as possible to the fairs established at Beaufort; but should any peculiar circumstance render it necessary for them to come to Graaff Reynet or Beaufort, it will be requisite that they shall be furnished with your passport, without which the police of the frontier provinces will take the intruders into custody.

All traffic in arms and gunpowder with the Borderers being most strictly forbidden by the colonial regulations, it will be your duty to

see that rule rigidly enforced, communicating to the landdrosts of the adjoining districts, whether Tulbagh or Graaff Reynet, such infractions thereof as may come to your knowledge; but as it may be necessary that the heemraden should obtain a moderate supply from time to time, you will be pleased to communicate their wants to this Government, when his Excellency will use his discretion as to what they shall be furnished with. You will, in other respects, keep up a frequent communication with the magistrates of the above-mentioned districts, in order that they may be apprized of all circumstances which it may be useful to them to know relative to these tribes, and their communications with the colonists. . . .

24

MEMORIAL SUBMITTED BY THE ALBANY SETTLERS TO LORD BATHURST, 10 March 1823[1]

. . . That the most pressing and insupportable of their grievances arise from the constant depredations of the Caffres, who have within a few months committed several murders, and deprived the settlement of the greater part of its cattle; that their depredations are in a great measure produced by relinquishing that line of policy which held out to those tribes a hope of procuring, by friendly barter, such commodities as their acquired wants have rendered necessary, and which they are now obliged to procure by theft or force; by discountenancing and withdrawing the military force from the new settlement of Fredericksburg, and permitting the Caffres to plunder and force the settlers to retire, and ultimately to burn it to the ground; by withdrawing from the Fish River a line of posts which had previously effectually protected the settlers; by refusing aid to the more advanced farmers, plundering parties have been encouraged to drive those in, and afterwards to extend their incursions to all parts of the settlement, and even beyond it; by exasperating that tribe which had hitherto preserved the appearances of friendship in attempting to seize their chief (Gaika) in his own village; and by withholding from the local military authorities that discretionary power with which they were formerly vested, which by enabling them to enforce summary restitution, showed the Caffres that the offence must instantly be followed by the punishment; whereas, by waiting the decision of the Commander-in-Chief, 600 miles distant, in every emergency, offences are allowed to accumulate to an alarming amount; and the slender means of defence the settlement possesses, deprived of the power of acting with promptitude, is forced to present to the Caffres at once the appearance of enmity and weakness.

[1] C.O. 48/60. Printed in *R.C.C.*, vol. xv, p. 309.

That it thus appears to the colonists, instead of the new settlement ever deriving any advantage from the civilization of these savages, that the existing measures can only lead to a war of mutual extermination. . . . [171 signatures.]

25

THOMAS PRINGLE TO THE COMMISSIONERS OF INQUIRY, 12 January 1826[1]

Graham's Town.

. . . It appears that Colonel Somerset had received intelligence that some cattle and horses, formerly stolen from the colony, were in the possession of a chief, named Neuka (a relation of Gaika's) and a Caffre female of rank, with whom he is associated; and although the Caffres have been altogether very quiet for several months past, Colonel Somerset determined severely to chastise this chief. A secret expedition was therefore planned, and the commandant, accompanied by about 200 men of the Cape corps, and a party of burghers from Baviaan's River and Bruintjes Hoogte, marched off suddenly on the 20th ult. to attack Neuka's kraal. So secret and sudden indeed was this expedition, that the landdrost of Albany was not informed of it until after the commandant had marched from Graham's Town, and was consequently prevented from adopting any sufficient measures for the protection of the traders at Fort Willshire.

Notwithstanding all this secrecy, however, and the assistance of the Caffre spies and guides who accompanied them, the party sent forward to attack Neuka fell first by mistake upon a kraal belonging to the chief Botman, who has been long on friendly terms with the colony. Before their mistake was discovered some women and children had been shot, the cattle seized, and the chief himself in imminent danger of being killed in the confusion, when he was fortunately recognized by some of the party, an explanation took place, the captured cattle were restored, and the commando marched forward. The next kraal plundered by the commando was one of some of Gaika's people, against whom there was no complaint; but this was also done by mistake; and upon some remonstrance on the part of the chief, part at least of the cattle carried off from this kraal were subsequently restored.

While the commando was thus blundering about and attacking one peaceable party of Caffres after another, and wantonly firing upon

[1] *Parl. Papers*, 1835 (50), vol. xxxix, pp. 183–4. *Thomas Pringle*, Scots poet and friend of Sir Walter Scott, had emigrated to Albany with a party of 24 in 1820. He became librarian in Cape Town and was concerned in the publication of the first newspaper, where he was very outspoken on the distress of the 1820's. When Lord Charles Somerset imposed a censorship in 1826, he left the colony and became Secretary to the Anti-Slavery Society until 1834. The Commissioners of Eastern Inquiry, appointed in 1822, were J. T. Bigge and Major W. M. G. Colebrooke.

the fugitives, the chief Neuka, against whom alone the incursion professed to be directed, had taken the alarm and retreated into the woods, with nearly all his people and property; so that it is said he has suffered comparatively but little loss, though upwards of 500 head of cattle have been brought into the colony.

Of the captured cattle, about two-thirds are said to have been given over by Colonel Somerset to the field-commandant Durant, for distribution among the burghers of Baviaan's River and Bruintjes Hoogte; the rest have been brought into the Albany district.

The number of Caffres killed in this expedition is not exactly known; but as the Boors fired upon the fugitives, in spite (as it is said) of orders to the contrary, from 10 to 20 souls are supposed to have been wantonly sacrificed, chiefly women and children.

Two Europeans, a soldier and a settler, who had straggled from the commando on its return, were killed by the exasperated Caffres.

Upon the whole, this expedition appears to have been undertaken without necessity, and executed without discretion. There have not been very recently any depredations on the frontier; and the information which Colonel Somerset had obtained (from his Caffre spies, it is supposed) respecting a considerable number of stolen horses being in the possession of the chief Neuka, appears to have been altogether false or much exaggerated. No horses were recaptured, nor any traces of them found, and only a very few colonial oxen. Besides, supposing Colonel Somerset's information correct, was it justifiable to exasperate the Caffres by hostilities, and expose the frontier colonists to reprisals, without at least making some attempt to procure restitution by fair and peaceable means, which of late have seldom been found to fail with the frontier chiefs?

If the justice and expediency of this incursion be very questionable, the mode of conducting it is not less so. Tribes at peace and amity with the colony have been blunderingly attacked and wantonly fired upon; all by mere mistake, it seems. Innocent blood has been spilt, and unoffending people plundered; warlike chiefs have been grievously injured and provoked, the Caffre traders and advanced settlers endangered, and the whole eastern frontier thrown into alarm and confusion. . . .

26

LORD GODERICH TO GOVERNOR SIR LOWRY COLE, 26 May 1831[1]

SIR,

I have had under my consideration the report which you have transmitted to my Under Secretary of State on the present condition of the Hottentot settlement, which has recently been formed at the

[1] *Parl. Papers*, 1835 (252), vol. xxxix, pp. 56–57.

Kat River, and it has afforded me the highest satisfaction to peruse the favourable accounts which Judge Menzies and the Rev. Mr. Thompson have given of the intelligence, industry and desire for religious instruction which have hitherto been manifested by the people of that settlement. . . .

The consideration of this subject has led me to think that the lands of the ceded territory might henceforth be appropriated to general purposes of settlement. I collect from the accounts which have reached my office, that all the lands within the ancient limits of the colony which are considered adapted to the purposes of agriculture have already been disposed of, and this is a fact so well known, that it has deterred many respectable persons from emigrating from this country to the colony. It is also to be presumed, that there are many colonists who would be glad to transfer their industry and their capital to lands capable of yielding more profitable returns.

In other respects I consider that the settlement of the ceded territory would tend to the greater security of the colony against the future inroads of the Caffre tribes, and contribute also, under judicious arrangements, to the civilization of those people. For these reasons, I am of opinion that it will be proper to make arrangements for locating respectable settlers in the ceded territory. I should, however, decidedly object to allow any of the Boors of the colony to obtain lands in that quarter. Those lands should be granted to Englishmen and to Hottentots only. It will be desirable, however, that the ceded territory should be opened only gradually to new settlers, and that no inland grants should be made until the whole line of frontier from the sea to its northern extremity shall have been located. I am further of opinion, that the lands should be sold at a given sum for the acre, with a peremptory reservation of forfeiture in case of the introduction of slave or compulsory labour. In fact, there is no reason why a law should not be promulgated, for the purpose of declaring it to be illegal for any person in the ceded territory to hold another in a state of slavery, whether as a domestic or a praedial slave. . . .

27

EDWARD STANLEY TO GOVERNOR SIR BENJAMIN D'URBAN, 27 November 1833[1]

SIR,

In my despatch of the 9th instant, I informed you that the ordinance of your predecessor the Governor in Council, No. 99, entitled, 'An Ordinance for explaining and amending the Laws relative to Commandos', has been reserved for further consideration.

That ordinance has demanded my particular attention. You are

[1] *Parl. Papers*, 1835 (252), vol. xxxix, pp. 64-66.

doubtless aware of the statements which have gone forth to the world in regard to these commandos, which have been represented as a system of military execution inflicted upon the aborigines, sometimes to prevent or punish their hostile incursions into the territory wrested from them by the European settlers, but more frequently as a means of gratifying the cupidity or the vengeance of the latter. Without giving implicit credit to all such statements, there certainly are not wanting reasons for authorizing the presumption that these commandos have been carried on with much disregard of human life, and have been marked by acts of atrocious cruelty. It must therefore, I apprehend, be admitted that the system has been a fearful scourge to the native population; and with that impression on my mind, I have naturally bestowed the most serious consideration upon the provisions of the ordinance.

This law commences by the recital of a proclamation, issued by Lord Macartney on the 20th of May 1797, which authorized the landdrosts and magistrates of the several districts to order parties of the inhabitants to arm, assemble and take the field against the wild Bosjesmen, at all times when that should appear reasonable and proper. The proclamation further commanded the inhabitants, when thus called upon, to pay immediate obedience to the orders of the field wachtmeesters, or other persons appointed by the magistrates to command them, and vigilantly to assist in repelling or attacking the wild Bosjesmen and others.

After setting forth that the said proclamation, and the other laws relating to commandos, had not been duly observed of late years, the ordinance proceeds to declare that the proclamation is and shall be in force, except as it is afterwards altered and amended. Various subordinate magistrates, and even constables, are then authorized, at all times of actual or threatened invasion, or for the protection of colonists or their property, or when they shall otherwise deem it absolutely necessary, to summon the inhabitants, for the purpose of acting on commandos; and any person who shall disobey such a summons is to be liable to fine and imprisonment.

Lord Macartney's proclamation empowered the magistrates to call out commandos as often as such expeditions should appear to them requisite and proper; and I do not understand the present law as depriving them of this vague and unlimited power. But even if the ordinance is to be construed as superseding the proclamation in that respect, the substituted terms are scarcely less indefinite. The colonial magistracy of all ranks may resort to this ultimate remedy, not only in cases of absolute necessity, real or supposed, but to protect the colonists or their property. The sword is, therefore, to be drawn against whole bodies of people at the bidding of a provisional constable.

The ordinance further confirms the wide and indiscriminate

language in which the proclamation describes the persons against whom the commandos might be called forth, 'wild Bosjesmen, runaway slaves, depredators of private property, and disturbers of the public peace'; all persons to whom these several designations might be applicable, even if subjects of the King, are thus placed beyond the pale and protection of the law. . . .

Nevertheless, framed as this law has been, not as a temporary measure to meet some overwhelming emergency, but as a permanent rule for the habitual conduct of the magistracy, and of the people at large, I have His Majesty's commands to signify to you His disallowance of the ordinance No. 99, and of Lord Macartney's proclamation, it being His Majesty's pleasure that such disallowance shall take effect on the 1st day of August next, and no sooner.

It will now of course be encumbent upon you to devise such other measures as may appear to you calculated to protect the colonists against unprovoked aggression on the part of their uncivilized neighbours. I am fully aware, indeed, that this may prove a task of no ordinary difficulty. The vast extent of the border line, the thinness of the population, the weakness of the military defence, the overpowering numbers, and the savage character of the native tribes on the frontier; all those considerations combined would seem to discourage the expectation that public tranquillity can be immediately restored, or long preserved by ordinary means of precaution. It is to such means, however, that you must now have recourse; and I would especially call your attention to the propriety of cultivating an intercourse with the chiefs of the Caffre tribes, by stationing prudent and intelligent men among them as agents of your Government. If not all, many of those chiefs might be gradually induced, in return for small annual presents of stores, to become responsible for the peaceable conduct of their followers; and by degrees they might learn to appreciate the solid advantages of an authorized barter. As I have now the whole of the colonial establishments under my consideration, I shall endeavour to make adequate provision for the expense of those missions. . . .

D. THE PACIFIC

28

THE REV. SAMUEL MARSDEN TO THE REV. JOSEPH PRATT, 4 June 1824[1]

Parramatta.

DEAR SIR,

In reply to your request for my opinion relative to the formation of a colony by Col. Nicolls[2] in New Zealand, there will be some difficulties to meet, according to my judgment, of a serious nature. The greatest obstacle will be the government of the Europeans. By what authority can they be kept in subordination there? If the Europeans commit any act of violence, such as violating the wives of the natives, striking the natives, taking any of their property by force, firing upon them with muskets, if only with powder, or any other wanton act, such conduct might prove fatal to the whole of the Europeans. If a body of good men were to sit down as colonists, at the River Thames, or perhaps more to the southward, they would prove a great blessing to the island. I am at a loss to know what kind of effective government they can have in New Zealand. They cannot establish a colony there without penal and civil laws. Crimes will be committed, both by the Europeans and the natives, and if these crimes cannot be punished the colony would be soon overturned. As a missionary alone I could live in great safety, but a colony would not be safe unless established under some regular form of government. From the errors and misconduct of some in the mission, I have often been astonished that the missionaries have not been murdered. The natives have shown great forbearance on many occasions, and if a few missionaries cannot be kept in subjection without a Government, it will be difficult to manage a greater number of different characters. At the mouth of the fresh water of the River Thames, about 20 miles perhaps from the sea, there is a very fine situation for a colony—could be easily fortified, and would be a very commanding post. I have little doubt but the ground might be purchased.[3] The New Zealanders themselves are very sensible of the want of a protecting Government, and would rejoice if anything could be done to prevent the strong from crushing

[1] C.M.S. archives: Australasian Mission No. 37. Printed in *H.R.N.Z.*, vol. i, p. 627. *Samuel Marsden* had been a chaplain to the garrison in New South Wales since 1793, and had been primarily responsible for the establishment in 1814 of the C.M.S. mission in the Bay of Islands, New Zealand. *Joseph Pratt* resigned from the Secretaryship of the C.M.S. later in 1824. He had been Secretary when Marsden first mooted a New Zealand mission on his visit to England in 1808.

[2] See above, pp. 446–7.

[3] The concept of absolute alienation of land by freehold sale was quite unknown to Maori land law.

the weak. The New Zealanders want a head. I had many conversations with the chiefs on this subject when I was in the island last year. They told me no chief would be willing to give up his authority to another, and they could not agree amongst themselves to nominate any one chief as king. . . .

[Hongi has attempted union by conquest, but cannot retain his authority.]

The late Act of Parliament,[1] authorizing the courts of justice in N.S. Wales to punish offences committed in New Zealand, would be favourable to the establishment of a colony, as the natives would know that they would obtain protection from the Government here. If an effective Government can be established in New Zealand to punish crime, a colony may be established, and benefit the natives, but if an effective Government cannot be established, neither can a colony, in my judgment, without much danger. Before any colony is attempted, the island should be more surveyed. We know little of it yet, and there may be many situations more suitable for a colony than any we have seen. As I am wholly ignorant of the views of Lieut.-Col. N., and upon what plan he proposes to form his colony, I cannot say more upon the subject. It had been communicated to me that Lieut.-Col. N. had such an intention before I received your letter, but nothing more was stated. . . .

29

MEMORIAL SUBMITTED BY THE SOUTHERN WHALERS TO LORD BATHURST, 24 April 1826[2]

The humble memorial of the undersigned merchants, shipowners, and others interested in the South Sea fisheries, and in the trade of the South Pacific Ocean, showeth. . . .

[The memorialists emphasize the great potentialities of New Zealand in flax and timber for the Navy, as a shelter for shipping and a depôt for British commerce. They also stress the considerable trade development which has taken place in the Sandwich and Society Islands and other Pacific groups, producing useful commodities for the China markets as well as for Europe.]

That under this conviction your memorialists, with great submission to Your Lordships, venture to urge the great advantage and expediency of forming a settlement in New Zealand, for which purpose they most respectfully solicit that a military force may be stationed in those islands for the security of the various British interests which are springing up therein, and which must rapidly increase under its protection.

That such a force, restrained from every attempt at conquest or

[1] 57 Geo. III, cap. 53. [2] C.O. 201/179, ff. 601–5. Printed in *H.R.N.Z.*, vol. i, pp. 663–6. Copies were sent to the Admiralty and the Committee for Trade.

aggression, and acting solely for the defence of persons and property, would be equally advantageous to the natives as to His Majesty's subjects, inasmuch as, while it secured British subjects frequenting these islands from being assailed and plundered by the natives, it would protect the latter from the insults and outrages which the crews of European vessels have sometimes perpetrated,[1] and which have proved the occasion of exciting the natives to murderous and indiscriminate retaliation.

That a British protecting force, which several of the most intelligent chiefs have expressed a strong desire to obtain, while it gave security to persons and property, as between His Majesty's subjects and the native inhabitants, would have a powerful tendency to check that barbarous warfare which the several independent tribes are perpetually waging against each other, and would thus prove the only effectual means of introducing amongst this interesting people the peaceful pursuits of industry and the blessing of civilization and of religious and moral instruction.

That, above all, your memorialists are exceedingly desirous that the important British interests connected with New Zealand should, as soon as may be found practicable, be placed under the formal protection of His Majesty's Government, because from the information they have received there is too much reason to apprehend that the French have it in contemplation to establish themselves there, and that it would be a most invaluable colony for France, with reference to all the most important and favourite objects of her present maritime policy, no doubt can be entertained, as it is admitted by navigators and others who have visited New Zealand that any such Power in possession of its safe and capacious harbours, with the naval stores and powerful seamen which it would supply, could not fail eventually to obtain a complete ascendancy in the eastern seas and South Pacific Ocean, and would obviously have the means, in any future war, not only of preventing your memorialists and the Colonies of New South Wales and Van Diemen's Land from carrying on their trade and fisheries on these coasts, but would render the security of those valuable colonies themselves, and their trade and intercourse with the Mother-country, very precarious.

That your memorialists therefore earnestly solicit that the British interest in New Zealand may be placed under the protection of His Majesty's Government, and that such a military force as may be deemed adequate for this purpose be immediately stationed in these islands.

And your memorialists, as in duty bound, will ever pray.

SAM. ENDERBY & SON, JOSEPH SOMES [and 13 other signatures].

[1] A caution derived from the *Boyd* massacre.

30

LORD GODERICH TO GOVERNOR RICHARD BOURKE, 14 June 1832[1]

SIR,

This despatch will be delivered to you by Mr. James Busby, who is proceeding to New South Wales, thence to take his departure for New Zealand, at which place he will have authority to act as His Majesty's Resident, in pursuance of the arrangement communicated to you in my despatch No. 75 of the 15th of March last. This appointment has been made, partly with a view of protecting British commerce in the islands of New Zealand and in the adjacent islands in the South Sea, and partly in order to repress the outrages, which unhappily British subjects are found so often to perpetrate against the persons and property of the natives and the peace of society in those regions.

I am, indeed, well aware that the law is at present very inadequate to give full effect to such a mission. The power of bringing to trial within the Australian colonies persons committing crimes in the adjacent islands appears, from the single experiment which has come under my observation, to be almost nugatory. Nor indeed, would it be reasonable to anticipate a different result. There is not, within any of those countries in which the offence may be committed, any authority competent to seize or to detain offenders. There is no power of compelling either the criminals or the witnesses to resort to New South Wales; and, in the case of minor offences, the impossibility of inflicting any punishment on the spot affords a virtual and complete impunity. Nor can it be forgotten that, in the peculiar circumstances which society exhibits in the South Sea Islands, many actions either impracticable or venial in Europe may deserve severe punishment. Thus, for example, the fomenting of wars between barbarous tribes for selfish purposes, though a crime of the deepest malignity, is of course prohibited by no European code; and the extraordinary traffic in human heads, which prevailed between New Zealand and New South Wales, is an instance of a transaction, which derives its danger and criminality almost exclusively from circumstances and considerations applicable to no other country than that in which it occurred. The duty of rescuing uncivilized nations from the fearful calamities so often produced by the vicinity of European settlers and navigators may be collected from almost every page of the history of that intercourse; and, in order to render such protection effectual, it may be necessary not only to provide for the enforcement of the Criminal Law as it exists amongst ourselves, but for the adaptation of that Law to new and peculiar exigencies.

[1] *H.R.A.*, Series I, vol. xvi (1923), pp. 662–4.

With these views, Viscount Howick has obtained leave to bring into the House of Commons a Bill,[1] of which I enclose a copy for your information. Should it pass into a Law, the Legislative Council of New South Wales will have the power of rendering Mr. Busby's mission effectual to the purposes with which it has been undertaken. Should the Bill not pass, his mission will still not be unattended with important advantages, and His Majesty's Government will be acquitted of the reproach of an acquiescence in crime, which they will have done the utmost in their power to prevent.

You are so perfectly aware of the objects which have led to this appointment in a commercial point of view, that I do not feel it necessary to enter into any detail as to the nature of the Instructions with which Mr. Busby should be furnished by you in regard to this branch of his duty. But it is obvious that he will derive great advantage from a strict union and cordial co-operation with the missionaries in the extension of Christian knowledge throughout the islands; and you will not fail to impress this, amongst other points, upon his attention.

I transmit, herewith, under a flying Seal for your information, a letter which I have addressed to the Chiefs of New Zealand, in answer to the communication from them, which accompanied your despatch No. 2 of the 23d Decr. last, with the delivery of which Mr. Busby will of course be entrusted; and you will consider yourself authorized to supply Mr. Busby with such articles to be presented by him to the Chiefs on his arrival, as you may consider likely to be acceptable to them; taking care, however, that they are of inconsiderable value, and such as will not create any jealousy on the part of those whom it may not be so necessary to conciliate, and upon whom consequently such presents need not be bestowed. . . .

LORD GODERICH TO THE CHIEFS OF NEW ZEALAND

14 June 1832[2]

FRIENDS!

I am commanded by the King to acknowledge the receipt of the letter, which you addressed to His Majesty and which you entrusted to Mr. William Yates[3] to forward to England.

The King is much gratified to find that the cause for alarm, which appears to have existed at the time when your letter was written, has entirely passed away; and he trusts that no circumstances may occur in future to interrupt the internal tranquillity of New Zealand, which is so necessary to the maintenance of a close commercial intercourse between the inhabitants and those of Great Britain.

The King is sorry for the injuries which you inform him that the people of New Zealand have suffered from some of His subjects.

[1] This Bill was not passed.
[2] Enclosure in the preceding dispatch.
[3] A missionary of the C.M.S.

But He will do all in His power to prevent the recurrence of such outrages, and to punish the perpetrators of them according to the laws of their country, whenever they can be apprehended and brought to trial; and the King hopes that mutual good will and confidence will exist between the people of both countries.

In order to afford better protection to all classes, both natives of the island of New Zealand and British subjects who may proceed or be already established there for purposes of trade, the King has sent the bearer of this letter, James Busby, Esqr., to reside amongst you, as His Majesty's Resident, whose duties will be to investigate all complaints which may be made to him. It will also be his endeavour to prevent the arrival amongst you of men, who have been guilty of crimes in their country and who may effect their escape from the place to which they may have been banished, as likewise to apprehend such persons of this description as may be found at present at large.

In return for the anxious desire which will be manifested by the British Resident to afford his protection to the inhabitants of New Zealand against any acts of outrage, which may be attempted against them by British subjects, it is confidently expected by His Majesty that, on your part, you will render to the Resident that assistance and support which are calculated to promote the object of his appointment, and to extend to your country all the benefits which it is capable of receiving from its friendship and alliance with Great Britain. . . .

VI

HUMANITARIAN PRINCIPLES AND COLONIAL POLICY

A. THE SLAVE TRADE, AMELIORATION AND EMANCIPATION

1

WILLIAM PITT TO LORD HAWKESBURY

30 January 1788[1]

. . . The subject of the papers enclosed in your letter which I have just received is one on which I shall be very glad to converse with your Lordship. The stopping a practice which has subsisted so long as the slave trade, and which is connected with so many other objects, may certainly lead to very serious consequences; and if the measure should take place, it will be a very serious and anxious part of our duty to endeavour to diminish the inconvenience. I own however that whatever that inconvenience might be, I am at a loss to find arguments which can justify the admitting such a plea against the measure itself. I will not trouble you by going into more particulars till we have an opportunity of talking over the subject, which I wish to do very fully before it is discussed. . . .

2

REPRESENTATIONS TO THE COMMITTEE FOR TRADE BY THE COMMITTEE OF MERCHANTS TRADING TO AFRICA, 19 February 1788[2]

African Office.

[The Committee for Trade have referred a number of queries relating to the slave trade to them.]

. . . They take the liberty, in obedience to their Lordships' desire, to represent for their information:

That the trade from this country to Africa was in a very flourishing

[1] *Liverpool Papers*, Add. MSS. 38,192, f. 58. For the beginning of the anti-slave-trade campaign see Lord North's answer to the Quaker Petition, *Parl. Hist.*, vol. xxiii (1783), 1026–7.

[2] *Report of the Lords of the Committee of Council appointed for the Consideration of all Matters relating to Trade and Foreign Plantations, submitting . . . Evidence . . . collected in consequence of an Order in Council, 11 February 1788, concerning the present state of . . . the Trade in Slaves*: Paper No. 1 of detached pieces of evidence.

state before the breaking out of the late war; that since the peace it has again revived, and the merchants concerned therein have, with much spirit, endeavoured to carry it to an extent equal to what it had formerly arrived at; but that the French, by uncommon exertions to encourage and improve this trade from their own country, in granting very large bounties, not only upon the ships employed therein, but upon the negro slaves imported by them into their colonies, have created such a powerful competition in Africa with the British merchant as he is not well able to resist, insomuch that the trade at present is rather in a languid state; and this Committee understand, that several of the British merchants concerned therein have lately moved a considerable share of their capital to France, being tempted thereto by the superior encouragement from thence; a practice which, if continued, must be attended with very serious consequences to the commerce and naval interests of this country.

With regard to the practice and manner of purchasing or obtaining slaves on the coast of Africa, this Committee beg leave to inform their Lordships, that the established mode of purchase is by fair barter with the native proprietors; and though it must be admitted that some irregularities will unavoidably happen in a commerce of such magnitude, and in a country of such vast extent, inhabited by an infinite number of small states, speaking different languages, which are very imperfectly understood by most of our traders; yet it is a matter worthy of remark, that this Committee, in the course of near forty years, recollect but two instances in which they had an opportunity of punishing delinquents for abuses committed in this trade under the Act of the 23d of His late Majesty, though they have given every encouragement to complaint, and though it is almost impossible for persons committing abuses to escape detection, because it is the invariable practice of the natives, in such cases, to avenge themselves or make reprisals upon the next trader, who will naturally sue for remedy against the person who has been the cause of his suffering.

But if their Lordships wish to be informed by what means the native proprietor acquires a property in his fellow creature: that is a question which this Committee cannot so perfectly answer. According to the best information which they have been able to collect upon this subject, they understand that slaves have been always so universally allowed and admitted throughout Africa as personal property, that they are a general denomination of wealth, it being usual to say, a man is worth so many slaves, as we say he is worth so many pounds. And that the slaves sold to our shipping are either taken from the proprietor's stock, being slaves from generation to generation, or debtors unable to discharge their engagements, or what is most frequent, that they are persons convicted of crimes, and sometimes prisoners taken in war, whom their friends have generally an opportunity but are not able to redeem. . . .

[They understand that slaves are treated with 'every indulgence which prudence and self preservation warrant', but the condition of the slaves on the plantations is a matter on which the West Indians themselves must give information.[1] Since 1783 the Committee state that there has been a very profitable trade under special licence with the Spanish islands.]

It is a certain fact, that Africa has not derived advantages from this trade in any degree equal to ours; nor was it possible in her situation to obtain such advantages, having no manufactures to sell, no foreign commerce to extend, or navigation to improve. Her benefits, however, are equal to her state, for her wants are fully supplied at a very trifling expense, the greatest part being paid for with what has been a burthen to other countries, the refuse and off-scourings of her population, without which she would have little or no existence in trade, her natural products being very trifling compared to her wants, and, notwithstanding the greatest encouragements, have been hitherto incapable of improvement.

But the effects of this trade to Great Britain are beneficial to an infinite extent. In its immediate effect it employs about 150 sail of shipping, which carry annually from this country upwards of a million of property, the greatest part our own manufactures; and in its more remote effects, there is hardly any branch of commerce in which this nation is concerned that does not derive some advantage from it. But the beneficial effects of this trade have been nowhere so eminently striking as in the sugar colonies in the West Indies, where it has been proved by experience, that Europeans cannot bear the labour of the field; so that those valuable possessions would most probably have remained to this moment uncultivated and useless to a great degree had they not been assisted by the African labourers; it is therefore fair to include every advantage which this country enjoys by means of its West India colonies, among the benefits of the African trade, more particularly that for slaves; and if their Lordships will take the trouble to look back to the condition of the British nation at the time of commencing this trade, and observe its progress in navigation, in commerce, in manufactures, opulence, and power, they will find its acquirements of those great national objects in pretty exact proportion to its pursuits in the African trade, and the consequent improvement of the British colonies and settlements in America.

In conclusion, this Committee make no scruple to assert, that the African trade is so blended with our commerce, and so interwoven with our general interests, that if at any time, through neglect, mismanagement, or misfortune, this nation should be deprived of its benefits, it will then suffer a very great and irreparable loss, a maim in its commerce, dignity, and power, of which it is impossible it can ever recover.

[1] Circulars had been sent by Fawkener on behalf of the Committee for Trade on 27 February 1788 (C.O. 5/36) to all Colonial Agents of the West Indian colonies for information on importations of slaves, proportions of the sexes, tonnage, &c. Further information was required by a circular of 3 March on cultivation, 'aggregate population with some differentiation according to age group', and the slave code.

3

MINUTES OF THE SOCIETY FOR EFFECTING THE ABOLITION OF THE SLAVE TRADE

August 1788 to April 1792

12 August 1788[1]

It has been suggested, with a view to insinuate the impracticability of success, that the intention of the Society went to promote the abolition of slavery—an intention which the Committee have thought necessary to disclaim by public advertisement.[2] For however acceptable a temperate and gradual abolition of slavery might be to the wishes of *individuals* it never formed any part of the plan of this Society.[3] The more humane part of our adversaries have allowed the charges of cruelty in the conduct of this trade and admit that certain regulations are necessary by which those charges may be obviated; but the Committee are of opinion that the *trade* is in its nature and principle essentially unjust, and they apprehend that mere regulation by authority of Parliament will by those immediately concerned be constrained into an approbation of the principle. The voice of humanity calls loudly for the extinction of a traffic which no plea of policy or interest can justify in the eye of reason or conscience. Yet the Committee trust that on a candid and full examination it will appear that policy and philanthropy are not at variance on this occasion, and that it is no less the interest of this nation than it is becoming the spirit of humanity, which distinguishes its character, to comply with the wishes of the people and prohibit the trade.

20 July 1790[4]

At the commencement of this Society it could not be foreseen that the prosecution of its greatest object would acquire so much time and expense. It may be of use to take a summary view of the ground we have passed and of that on which we now stand. . . .

In the progress of this business a powerful combination of interests have been created against us. The African trader, the planter and the West India merchant have united their forces to defend the fortress in which their supposed treasures lie. Vague calculations and false alarms arising from them have been thrown out to the public attempting

[1] Add. MSS. 21,255, f. 50. This Society was formed by Clarkson and a group of Quakers in 1787.

[2] Cf. Minute of 31 January 1792, with statement for the country papers denying misrepresentations that emancipation was their real aim.

[3] See also Clarkson to Beauvet in 1789: 'The colonial slavery, sir, does not enter into our plan. We are of opinion that the emancipation of the slaves would be of no benefit to them at present, would ruin some of their proprietors, would endanger the revenue for a time, and would be an evil rather than a good.'

[4] Add. MSS. 21,256, ff. 4–5. This report was published.

to show that the constitution, and even the existence, of this free and opulent nation depend on its depriving the inhabitants of a foreign country of those rights and that liberty which we ourselves so highly and so justly prize. Surely in the nature of things and in the order of Providence it cannot be so. England existed as a great nation long before the African commerce was known amongst us and it is not to acts of injustice and violence that she owes her present rank in the scale of Europe.

It is not difficult to reply more particularly to these several classes. To the African trader we say that the natural produce of Africa will open an honourable, and in all probability a lucrative, source of trade which he may follow with a self-approving conscience. To the planter we repeat that his true interest must be to recruit his stock of labourers by natural increase rather than by purchase, for such as are born in the islands and bred up in the habits of labour are by the unanimous testimony of all parties of such superior value to those dragged from Africa whose resentments are strong and whose labour is reluctant and unskilful. To the West Indian merchant and others concerned in West Indian property we desire to state that what has been given in evidence with respect to the success of many plantations in supporting their numbers by births we cannot but believe may with similar attention be realised in all, except perhaps some few the situation of which is peculiar[ly] unhealthy. We see no cause to dread defective crops, but even if there should be some temporary deficiency a compensation will probably be found in the higher price of the commodity. The worst that seems possible to happen is that the consumer may pay something more for his rum and sugar . . . a consideration not surely to be put into competition with the injustice of taking men by force from their own country and reducing them and their posterity to the condition of brutes. . . .

By order of the Committee, GRANVILLE SHARP, Chairman.

Committee Resolutions, 5 April 1792[1]

Resolved, That the House of Commons having voted that the Slave Trade shall be *gradually abolished* have by that decision manifested their opinion that the Slave Trade is cruel and unjust.

Resolved, That a *gradual* abolition of the Slave Trade is not an adequate remedy for its injustice and cruelty neither can it be deemed a compliance with the general wishes of the people expressed in their numerous and urgent petitions to Parliament.

Resolved, That the interval in which the Slave Trade shall be permitted to continue affords a prospect of redoubled cruelties and ravages on the coast of Africa and that there is therefore an additional

[1] Add. MSS. 21,256, f. 54. Those present included Samuel Hoare, Rev. T. Clarkson, William Dillwyn, George Harrison, Josiah Wedgwood, Henry Thornton, James Phillips, and Granville Sharp.

obligation on every friend of our great cause to use all constitutional means to obtain the *immediate abolition* of that unjust, inhuman and destructive traffic.

4

BRISTOL PETITIONS TO THE HOUSE OF COMMONS, 12 May 1789[1]

A petition of the West India planters, West India merchants, and others residing within the city of Bristol, and its vicinity, who have adventured their property on West India securities, either on mortgage, bond, annuity, or otherwise, and of the sugar refiners in the said city of Bristol, was also presented to the House, and read; Setting forth, That the petitioners learn with serious alarm that, on the proposed investigation in the Committee of the House of Commons of the petitions against the slave trade, a motion will be made for its entire abolition, on which trade, the petitioners conceive, the welfare and prosperity, if not the actual existence, of the West India Islands depend: That it has been found by recent enquiries, conducted with the greatest exactness, that the African and West India trade constitute at least three-fifths of the commerce of the port of Bristol, and that, if upon such motion a Bill should pass into a Law, the decline of the trade of the city of Bristol must inevitably follow, as the African trade and the great West India commerce, connected therewith and dependent thereon, form so considerable a part of it, and this to the very great loss of the petitioners, and to the ruin of thousands of individuals who are maintained thereby, but who are not sensible of the impending danger; and that the petitioners, many of them from their own experience, and all of them from the reports of judicious people conversant with the West Indies, on whose representations they can rely, are fully convinced that the cultivation of the West India colonies cannot be carried on to any degree of advantage, should that trade be abolished by which they have hitherto been supplied with negro labourers from Africa by the subjects of this country; and that, as the West India Islands are the great market for the British herrings, that fishery, which has ever been considered as

[1] *Journals of the House of Commons*, vol. xliv, pp. 353–4. The Mayor and Corporation, the Merchant Venturers, and the African merchants of Bristol submitted petitions the same day. On 20 May 1789 petitions were presented by the Mayor and Council of Liverpool; the manufacturers of African goods in Birmingham; the merchants interested in African trade from London; several creditors of sugar colonies resident in Liverpool; the African merchants in Liverpool; the iron manufacturers, the sailmakers, the joiners, the shipwrights, the ropemakers, the coopers, the gunmakers, the blockmakers, the bakers of Liverpool, and the manufacturers of African goods in Manchester. On 12 May Wilberforce made a powerful speech against the slave trade (*Parl. Hist.*, vol. xxviii, 41–67), but the opposition succeeded in postponing discussion on the plea that the House could not accept evidence second-hand from the Committee for Trade.

the nursery of our seamen, and the source of wealth and employment to numbers of the subjects of this kingdom, must be materially affected by any diminution of the consumption in those islands;[1] and the petitioners beg leave to represent the hardships to which the intended measure will expose the British planter, in putting him on a worse footing than the subjects of our great rivals in trade and colonization, the French, Spaniards, Dutch and Danes, especially the two former, who have unbounded tracts of rich land, which yield tropical productions with little labour and skill: To these natural advantages must be added the very great encouragement which the Spanish Government in particular gives at this moment to its own subjects, and the invitation which it holds out to strangers: On the other hand, the major part of the British adventurers have to contend with a sterile soil and unseasonable situations, requiring the utmost industry and skill to make them in any degree productive, so that without a continuance of the African slave trade, and the fostering helps of the mother country, so far from being able to meet foreign colonies at any European market, they will scarcely be in a state to supply even this country, where they have now an exclusive right of trade for some of their products; and that the petitioners consider the abolition of the slave trade as putting an absolute and immediate stop to all improvements or attempts of new settlements in the British colonies; that even the major part of the old settled estates must decline daily in their produce, under the effects of such a measure; so that many will inevitably sink under losses and disappointments which they have it not in their power to prevent, and the merchant, annuitant, mortgagee, and other creditors, instead of contributing largely, as at present, to the burthens of the state, must look up to the public for relief; and that, having the increasing rivalship of other nations to contend with, they presume to say, they should rather be considered as entitled to public help and countenance, than be put under restraints which must terminate in their ruin, and ultimately prove fatal to the commercial interests of this country; and that on the cession of the Island of Saint Vincent's, Dominica, and Tobago, to the Crown of Great Britain, the lands were sold at public auction, under the direction of Commissioners appointed by Act of Parliament, and the money arising therefrom paid into the Treasury; that, relying upon the faith of government, some of the petitioners purchased the said lands at a great expense, upon the express or implied terms of cultivating and improving them by negro slaves,[2] and the purchasers have since expended very large sums in clearing those lands, and erecting buildings and works for the manufacture of sugars, but which will be useless and lost to the adventurers, unless the

[1] A petition from the Bristol merchants of the same date trading with Newfoundland emphasized this point.

[2] This point was repeated in a petition the same day from the Agent for St. Christopher, Charles Spooner (*C.J.*, vol. xliv, p. 355).

African trade is continued, whereby only they can procure labourers to work the same. . . .

[Very large sums of money lent to the adventurers by some of the petitioners will be irretrievably lost if the new plantations cannot be brought to maturity through lack of further supplies of slave labour from Africa.]

And that the trade of sugar refining has, for many years, been a very considerable branch of manufacture in the city of Bristol, and the buildings, utensils, and dead stock, employed therein to a very great amount, are not convertible to any other purpose, and any check to the ample supply of this article, which is become in various shapes a necessary of life, would not only be ruinous in the extreme to the petitioners engaged in the manufacture, but the mischief would extend most widely, throwing many hundreds of common labouring people, brought up to this business, wholly out of employment, and of course reducing them to the necessity of emigrating to foreign countries, or becoming with their families burthensome to their own; and that the petitioners do not presume to deny that some regulations may have been necessary in the manner of carrying on the African slave trade; they are willing to believe that those already adopted have been serviceable, not only to the adventurers themselves, but to the cause of humanity; they may still, as the petitioners think, be followed up by others, equally advantageous to the interests of both: It is with peculiar satisfaction the petitioners observe, that the principal colonial legislatures have anticipated the wishes of the House, in passing such Laws for the internal government of their negro slaves as they conceived to be consonant to their situations, and fully to meet the expectations of the people of this country; and, the petitioners doubt not the other islands will soon follow this laudable example, and the petitioners trust that the House will not hastily establish a system by which the most valuable dependencies of the British empire may be hazarded, and that in an experiment only, by no means, in the petitioners' opinion, likely to serve those it is intended to relieve: And therefore praying, that the Bill about to be brought in, for the abolition of the slave trade, may not pass into a Law, and that the petitioners may be heard, by their counsel, against the same Bill, but, should it be adopted, they hope the House will see the necessity of suspending its operation to some remote and distant periods, previous to which a system may be devised that may, without violence or the operation of the intended Bill, produce the desired effect; but if, on the other hand, the Bill should pass, and it is deemed expedient, by the House, that its operation should be immediate, the petitioners look up to the justice of the British legislature for a suitable compensation for the losses they must inevitably sustain, and they trust that Commissioners will be authorized to enquire into the amount, and provision made for their immediate relief. . . .

[A similar petition was presented at the same time by the manufacturers and shipowners of Bristol, which concludes with the allegation:]

That, since the restrictions lately laid on the trade to Africa by the British legislature, no less than forty sail of vessels have been fitted out for that coast in the states of New England; and that the trade is also carrying on to a considerable extent by the ships and manufactures of France, with the capitals and on account of merchants residing in Great Britain, to the emolument of the French, the injury of this country, and in proof that, whatever may be the restrictions in these kingdoms, the slave trade cannot be abolished. . . .

5

JAMAICA: RESOLUTIONS OF A JOINT COMMITTEE, 3 December 1789, AND PETITION OF THE ASSEMBLY, 5 November 1790

3 December 1789[1]

Your committee, appointed to meet a committee of the Council in a free conference, to inquire into and report their opinion what steps are necessary to be taken with regard to the slave trade, in consequence of the information received from the agent of this island of the proceedings had in the House of Commons, during the last session of Parliament, in respect of the slave trade,[2] have accordingly met, and have taken the examinations of several persons, and have agreed to the following resolutions. . . .

[They declare that abolition would not promote humanity, but increase the practice of killing the infirm, the rejected, and the unsaleable. They meet the argument of heavy mortality among British seamen by asserting that 'we have reason to believe that since the late Regulating Act the mortality of British seamen in the slave trade has decreased nearly one half'.]

3. That it is the opinion of the joint committee, that the loss of negroes, which is sometimes sustained in the voyage from Africa, as well as in the harbours of this island between the days of arrival and sale, and which has been stated to happen from the mode of transporting them from the coast, being a remediable grievance, affords no argument for a total suppression of the slave trade. . . .

[No reliable opinion is possible as to whether the Regulating Act has reduced slave mortality on the Middle Passage: estimates vary from $2\frac{3}{4}$ to $35\frac{5}{8}$ per cent.]

5. That it is the opinion of the joint committee, that the number of slaves at present in this island are about 250,000; of which, according to the best inquiries that can be made concerning the proportion of

[1] *Journals of the Assembly of Jamaica*, vol. viii, Jamaica 1804, pp. 524–5.

[2] That Pitt, Fox, and Burke had supported Wilberforce had alarmed the West Indian Assemblies. These resolutions were followed on 10 December by a Remonstrance by Council and Assembly to the Houses of Parliament denouncing the threatened breach of solemn engagements under which they had embarked their fortunes and asserting the inviolability of their private property and fundamental constitutions 'which do not give omnipotence to a British Parliament'.

the sexes, there are 140,000 males and 110,000 females. It follows, therefore, that if future importations from Africa be discontinued, there will unavoidably ensue, from the disproportion of the sexes alone, a very great reduction from the present number of our slaves, before any augmentation can be expected from natural increase by generation, a diminution which must not only preclude all attempts at the further improvement of our unsettled lands, but likewise occasion a proportionable decrease in the present cultivation; it being an undoubted fact, that almost all the plantations already settled are much under-handed. . . .

[Efforts to encourage white emigration to increase military security have failed: white labour is anyway unsuitable to cultivation in the sub-tropical conditions. There are still 900,000 acres of land uncultivated, and if denied opportunity of developing them by fresh supplies of slaves, they will be entitled to compensation. The value of existing lands will also be decreased by abolition.]

10. That it is the opinion of the joint committee, that the charges which have been brought against the planters of this island, of improper and inhuman treatment of our slaves, may be fully refuted and disproved; first, by an appeal to our laws, and secondly, by the evidence of respectable men who have resided among us, and have been witnesses to our manners. Whatever may be said of our ancient colonial slave laws, the Acts which have been passed within the last ten years, are written in characters of justice, mercy, and liberality. Concerning the general treatment of our slaves, we refer to the evidence, already personally given to the Lords of the Council, by the Right Honourable Lord Rodney, Sir Peter Parker, Admiral Barrington, Sir Joshua Rowley, Admiral Hotham, Vice-Admiral Edwards, and Sir George Young; and to the further evidence that may be produced from gentlemen of character in England, who have resided many years in this island, and are intimately acquainted with our conduct and manners. We conceive that the testimony of such persons is unanswerable and conclusive; and shall therefore only remark, that it is notorious our slaves in general are not only treated with kindness and humanity, but that they are also protected by law from immoderate chastisement, or cruel treatment, and enjoy more easy, comfortable, and happy lives, than multitudes of the labourers in Great Britain. . . .

[Mortgages in Britain will be injuriously affected by a decrease in value of securities.]

PETITION FROM THE ASSEMBLY OF JAMAICA

5 November 1790[1]

To The King's Most Excellent Majesty.

The humble address and petition of the Assembly of Jamaica,

Most gracious Sovereign,

We, Your Majesty's dutiful and loyal subjects, the Assembly of

[1] *Journals of the Assembly of Jamaica*, vol. viii, pp. 585–6.

Jamaica, justly considering Your Majesty as the equal and impartial protector of all Your subjects, however remote, beg leave to approach the throne, with the utmost humility, to represent to Your Majesty,

That it appearing from the minutes of the British House of Commons, in the years 1788 and 1789, that various petitions had been presented to that honourable House from different corporations and bodies of Your Majesty's subjects in Great Britain, praying the interposition of Parliament in abolishing the African slave trade, grounded chiefly on supposed and imaginary sufferings, from improper treatment of the negro labourers in this and the rest of the sugar islands, we held it incumbent on us, in vindication of our insulted honour, in defence of our chartered rights, and in support of our property lawfully acquired, to enter into an extensive investigation, as well concerning the many false charges and injurious aspersions which were contained in some of the said petitions, as in regard to the fatal consequences which might be apprehended, in case the proposed measure of prohibiting the further importation of African labourers should be enforced by the authority of a British Act of Parliament. . . .

May it please Your most excellent Majesty to permit us in this place to observe that, on a careful reconsideration of the said remonstrance, we find it expressed in terms from which we see no just cause to recede. In maintaining that the rights of the British colonists are as inviolable as those of their fellow-citizens within any part of the British dominions, and in asserting that the authority of Parliament is not competent to destroy, or partially to mutilate, private property, without making full compensation to the sufferers, we urged the sentiments of justice in the language of the constitution. Such language could not, we trust, have been deemed improper by the most free and impartial tribunal in the universe.

It is, therefore, with extreme surprise and affliction that we are compelled to represent to Your Majesty that the well-known, undisputed, and established right of Your Majesty's subjects residing within the realm, namely, that of stating grievances to the great Council of the nation, was on this occasion denied to your faithful Assembly of this island; for, notwithstanding our remonstrance was delivered, during the actual sitting of Parliament, to the great officers to whom it was transmitted, not the least notice or intimation was given, as we are informed, to either House of Parliament, that any application had been received from the legislature of this island; nor has any reason been assigned to us why a representation of matters of the highest importance to our present and future welfare was withheld or suppressed.

Under such circumstances, Your Majesty's faithful Assembly would hold themselves inexcusable, both to their constituents and to posterity, to be silent. The right of applying to Parliament was neither relinquished by our ancestors on their emigration, nor has

been forfeited by us since our establishment in this colony. Our loyalty to Your Majesty, and long-tried attachment to the mother country, are indisputable; and, preserving these unimpeached and unimpaired, we claim the full enjoyment of all the liberties, franchises, and immunities of free denizens, in perfect equality with those who reside more immediately under the royal protection. For the Parliament of Great Britain we entertain all due respect and veneration; but we presume to think that to receive complaints and hear grievances is a great part of their duty, and to redress and obviate them, their chief glory. . . .[1]

6

EDMUND BURKE TO HENRY DUNDAS

16 April 1792[2]

Beaconsfield, Easter-Monday night, 1792.

DEAR SIR,

I should have been punctual in sending you the sketch I promised of my old African Code,[3] if some friends from London had not come in upon me last Saturday, and engaged me till noon this day: I send this packet by one of them who is still here. If what I send be, as under present circumstances it must be, imperfect, you will excuse it, as being done near twelve years ago. . . .

If the African trade could be considered with regard to itself only, and as a single object, I should think the utter abolition to be on the whole more advisable than any scheme of regulation and reform. Rather than suffer it to continue as it is, I heartily wish it at an end. What has been lately done has been done by a popular spirit, which seldom calls for, and indeed very rarely relishes, a system made up of

[1] A further series of resolutions was passed in a similar vein on 23 November 1792 against the renewal of the claim of the British Parliament to tax and to legislate for the colonies. The later comment of Lord Goderich (5 February 1833) to Lord Mulgrave is not inappropriate as a characteristic indication of imperial thinking in this period on the need for a flexible interpretation of the 'image and transcript' of Westminster. 'The analogy derived from the law and usages of Parliament,' he said, 'must in this as in many other cases be employed with great circumspection in the British colonies. The constitution of Great Britain and Jamaica cannot be reduced to a precise parallelism.' 'Large space' must be left 'for yielding to the pressure of local peculiarities' (C.O. 137/188).

[2] E. Burke, *Works*, Boston 1881, vol. vi, pp. 257–61. *Edmund Burke* had been private secretary to Lord Rockingham, the chief protagonist for the conciliation of the American colonists and the leading manager of the impeachment of Warren Hastings. He had supported the motion against the slave trade in 1788 and 1789.

[3] Burke's *Sketch of a Negro Code* itself is printed in F. Klingberg, *The Anti-Slavery Movement in England*, New Haven 1926, pp. 322 ff. The preamble states the expediency of putting 'an end to all traffic in the persons of men and to the detention of their said persons in a state of slavery', and provides for the protection, supervision, and care of slaves because it is 'not fitting that they should be under the *sole* guardianship of their masters': many of his proposals are similar to those of the ameliorationists in the 1820's.

a great variety of parts, and which is to operate its effect in a great length of time. The people like short methods; the consequences of which they sometimes have reason to repent of. Abolition is but a single act. To prove the nature of the trade, and to expose it properly, required, indeed, a vast collection of materials, which have been laboriously collected, and compiled with great judgment. It required also much perseverance and address to excite the spirit which has been excited without doors, and which has carried it through. The greatest eloquence ever displayed in the House has been employed to second the efforts which have been made abroad. All this, however, leads but to one single resolve. When this was done, all was done. I speak of absolute and immediate abolition, the point which the first motions went to, and which is in effect still pressed;[1] though in this session, according to order, it cannot take effect. A *remote*, and a *gradual* abolition, though they may be connected, are not the same thing. The idea of the House seems to me, if I rightly comprehend it, that the two things are to be combined; that is to say, that the trade is gradually to decline, and to cease entirely at a determinate period. To make the abolition gradual, the regulations must operate as a strong discouragement. But it is much to be feared that a trade, continued and discouraged, and with a sentence of death passed upon it, will perpetuate much ill blood between those who struggle for the abolition and those who contend for an effectual continuance.

At the time when I formed the plan which I have the honour to transmit to you, an abolition of the slave trade would have appeared a very chimerical project. My plan, therefore, supposes the continued existence of that commerce. Taking for my basis that I had an incurable evil to deal with, I cast about how I should make it as small an evil as possible, and draw out of it some collateral good.

In turning the matter over in my mind at that time and since, I never was able to consider the African trade upon a ground disconnected with the employment of negroes in the West Indies, and distinct from their condition in the plantations whereon they serve. I conceived that the true origin of the trade was not in the place it was begun at, but at the place of its final destination. I therefore was, and I still am, of opinion that the whole work ought to be taken up together, and that a gradual abolition of slavery in the West Indies ought to go hand in hand with anything which should be done with regard to its supply from the coast of Africa. I could not trust a cessation of the demand for this supply to the mere operation of any abstract principle (such as, that, if their supply was cut off, the planters would encourage and produce an effectual population), knowing that nothing can be more uncertain than the operation of

[1] The debate begun on 2 April stood adjourned over Easter, Dundas's amendment for gradual abolition having been carried by 195 votes to 125 on 3 April (*Parl. Hist.*, vol. xxix, 1103–33, 1204–25).

general principles, if they are not embodied in specific regulations. I am very apprehensive, that, so long as the slavery continues, some means for its supply will be found. If so, I am persuaded that it is better to allow the evil, in order to correct it, than, by endeavouring to forbid what we cannot be able wholly to prevent, to leave it under an illegal, and therefore an unreformed existence. It is not that my plan does not lead to the extinction of the slave trade, but it is through a very slow progress, the chief effect of which is to be operated in our own plantations, by rendering, in a length of time, all foreign supply unnecessary. It was my wish, whilst the slavery continued, and the consequent commerce, to take such measures as to civilize the coast of Africa by the trade, which now renders it more barbarous, and to lead by degrees to a more reputable, and, possibly, a more profitable connection with it, than we maintain at present. . . .

When a state of slavery is that upon which we are to work, the very means which lead to liberty must partake of compulsion. The minds of men, being crippled with that restraint, can do nothing for themselves: everything must be done for them. The regulations can owe little to consent. Everything must be the creature of power. Hence it is that regulations must be multiplied, particularly as you have two parties to deal with. The planter you must at once restrain and support, and you must control at the same time that you ease the servant. This necessarily makes the work a matter of care, labour, and expense. It becomes in its nature complex. But I think neither the object impracticable nor the expense intolerable; and I am fully convinced that the cause of humanity would be far more benefitted by the continuance of the trade and servitude, regulated and reformed, than by the total destruction of both or either. . . .

I have seen what has been done by the West Indian Assemblies. It is arrant trifling. They have done little; and what they have done is good for nothing,—for it is totally destitute of an *executory* principle. This is the point to which I have applied my whole diligence. It is easy enough to say what shall be done; to cause it to be done,—*hic labor, hoc opus*. . . .

7

THE SIERRA LEONE COMPANY AND THE SLAVE TRADE, 1794[1]

. . . The Directors must here remark . . . that they look forward to the period of the abolition of the slave trade, as the great era when a considerable commerce in African produce may be expected to commence. When the Africans, who have been long habituated to

[1] *An Account of the Colony of Sierra Leone, from its First Establishment in 1793*, Lond. 1795, pp. 58, 170–1.

European articles, shall find that nothing will be taken in return but the produce of their land and labour, then this produce must unquestionably increase. . . .

[Improvements in cultivation depend upon limitation of the slave trade. The establishment of a commercial factory on the coast will stimulate imitation and promote industry.]

The difficulty of interesting the African chiefs in schemes of cultivation, is a point on which it cannot be necessary therefore to dwell; for it is obvious that, generally speaking, neither a king who is in league with a slave-factor, nor a chief who has acquired all that he has by the slave trade, can be expected to become the patron of a plan which has for its object the introduction of industry and the reformation of the manners of Africa. And indeed it may be added, that the slave trade presents, both to the chiefs and the inferior dealers, profits often so tempting, and attended also with so little trouble, that habits of regular application and labour seem not likely to be general in Africa, till this trade shall cease. On the other hand it may be important to remark, that the slave trade has served to initiate the natives into the use of European articles, some of which are considered among them even as necessaries of life. The taste which has been thus created, may therefore be reasonably expected to operate as an effectual spur to industry, as soon as ever that era shall arrive, when Africa shall be required to give the produce of her land and labour, instead of her inhabitants themselves, in payment for these necessaries from Europe. . . .

8

RESOLUTIONS OF THE HOUSE OF COMMONS

23 April 1792 and 6 April 1797

23 April 1792[1]

1. That it shall not be lawful to import any African negroes into any British colonies or plantations in ships owned or navigated by British subjects at any time after the first day of January 1800. . . .[2]

12. That a humble Address be presented to His Majesty, beseeching His Majesty to take such measures as, in His wisdom, He shall judge proper, for establishing, by negociation with foreign powers, a general concert and agreement for the final and complete abolition of the trade carried on for the purpose of importing slaves from the coast of Africa, into any of the dominions of the said powers; assuring His Majesty, that while, on our part, we feel ourselves indispensably obliged, by the principles of justice, humanity, and sound policy, to

[1] *Parl. Hist.* xxix, 1213–17. These resolutions were two of the dozen introduced by Dundas.

[2] The House amended this date to 1796, ibid. xxix, 1293.

take the most effectual measures which circumstances will admit for accomplishing this important object, we shall enter on the pursuit of those measures with additional satisfaction, from the hope and persuasion that His Majesty will be enabled, by the prudence and wisdom of the respective colonial legislatures, to adopt such regulations, within the several islands in the West Indies, as by promoting their internal population, and gradually improving the condition of the negroes, may provide, in the most advantageous manner, an adequate supply for their cultivation, and contribute to the security, tranquillity, and permanent prosperity of those valuable possessions. That, considering the particular regulations which may be necessary for this purpose, to be the proper province of the colonial legislatures, we have not thought it proper to make them the subject of our deliberations; but that if any circumstances should arise, in which our co-operation and assistance shall be wanting for this purpose, we shall, at all times, be ready to offer it, with a zeal and alacrity proportionate to the importance of the end, and to our constant solicitude for the general welfare and happiness of every part of His Majesty's dominions. . . .

6 April 1797[1]

That a humble Address be presented to His Majesty requesting that His Majesty will be graciously pleased to give directions to the Governors of His Majesty's plantations in the West Indies, to recommend to the respective councils and assemblies of the said plantations to adopt such measures as shall appear to them best calculated to obviate the causes which have hitherto impeded the natural increase of the negroes already in the Islands,[2] gradually to diminish the necessity of the slave trade, and ultimately to lead to its complete termination; and particularly, with a view to the same effect, to employ such measures as may conduce to the moral and religious improvement of the negroes and secure to them, throughout all the British West India Islands, the certain, immediate and active protection of the law; and at the same time assuring His Majesty that this House will concur in such measure as shall appear requisite to be taken by this House for the attainment of the same object.

[1] *Parl. Hist.* xxxiii, 269. The resolution was introduced by Charles Ellis and supported by the West India interest and by Lord Hawkesbury. Pitt, Fox, and Wilberforce opposed.

[2] Reasons for the infertility of negro slaves were considered by the Privy Council Committee in 1789. Exhaustion, disease, susceptibility to epidemics, infant mortality, the prevalence of concubinage with white masters, and abortion were suggested as causes (see *Report of Lords of the Committee . . .*, Pt. iii: Antigua, Nos. 15, 16).

9

CIRCULAR DISPATCH FROM THE DUKE OF PORTLAND TO WEST INDIA GOVERNORS

23 April 1798[1]

My Lord or Sir,

From the manner in which the Legislature of —— received the Resolution of the House of Commons of the 6th of April 1797, relative to the negroes in His Majesty's plantations in the West Indies, I have the fullest confidence, that both the Council and Assembly will have entered upon and prosecuted the subject with that assiduity and attention, which its importance requires. The knowledge and information of the individuals, who compose the Legislature, peculiarly qualify them to investigate the subject, and to ascertain the best means to be pursued for obtaining the object proposed by the Resolution, an object which embraces the great and permanent interests of the Island, and the securing them against all possible contingencies. A consideration of such moment will of course direct and lead the wisdom of the Legislature, as a body, to make a minute investigation into the causes, which at present retard the population of negroes in the West Indies, and to the adoption of those means, which are most likely to counteract and prevent those effects in future. Under this conviction, when I first called the attention of the Legislature to the Resolution in question, I refrained from accompanying it with any suggestions of my own. But, as there are some points which appear to me to have a tendency very materially to promote the ends proposed, I will transmit them herewith for your serious consideration, and in order that you may communicate them to such of the principal members of both branches of the Legislature, as possess your confidence, and who, from their acquaintance with the temper and disposition of their colleagues, and resident proprietors of the Island, may be best enabled to advise and co-operate with you in regard to the measures, which it may be judged expedient to bring forward with a view to their being carried into effect. I am willing to believe that the wisdom and energy of the Legislature may have already led them to the consideration of some of the propositions I have suggested, as well as to others of a superior efficacy, but I notwithstanding hold it to be my duty in the course of the proceeding, to lay before you whatever appears to me essentially to promote the wise and benevolent intentions which dictated the Resolution of the House of Commons, confiding in your judgment and discretion, as to the time and mode of bringing them forward, and to your personal exertions, and those of your friends, in disposing the Assembly to give them a

[1] Draft in C.O. 5/267, pp. 109–13. 'Secret.'

favourable reception, which I am persuaded they cannot fail to meet with, when they come to be duly considered and are found to have no other source than the making a solid and certain provision for the regular cultivation of the Island.

[*Summary of draft enclosure.*

Portland makes the following suggestions:

1. A review of local legislation during the previous ten years, in order to ascertain the causes which retard the natural increase of the slaves, the steps already taken, and others that might be taken to obviate these causes.
2. The preparation of statistics indicating the annual importation and re-exportation of slaves during the previous ten years.

3 and 4. The local legislature to consider possible ways and means of encouraging marriage and the rearing of children, e.g. pecuniary rewards for rearing children, exemption of pregnant women from field labour, &c.

5. To consider legislation for securing slaves from liability to be seized for their masters' debts.
6. To consider ways and means of encouraging Christian missionaries with a view to the general establishment of the Christian religion and morals.
7. Since the young are more amenable to instruction than adults, to consider the possibility of laying an import tax on slaves over 20 or 25 years of age.
8. To consider the possibility of adopting the practice in Grenada of the appointment by Vestries of inspectors to enforce all regulations in favour of the slaves.]

10

TRINIDAD: LORD HOBART TO GOVERNOR SIR THOMAS PICTON, 18 February 1802[1]

SIR,

As one important source of the advantages, which Great Britain may expect to derive from the acquisition of the island of Trinidad, will arise from the cultivation of the immense tracts of fertile land, now unleased and unsettled, it becomes necessary to consider, with the attention due to the importance of the object, the best means to be employed, in the first instance for clearing, and afterwards for establishing settlements in the uncultivated parts of the colony.

It may be urged that were the lands once disposed of, the interests of the persons becoming the proprietors would operate rapidly and effectively to render them most beneficial to the planters, and consequently to the public, but the peculiar situation of the West Indian colonies at the present period, and the opinions which have already been expressed in this country against permitting the importation of slaves from Africa to Trinidad may make it necessary to have recourse

[1] Draft in C.O. 295/2, marked 'Private'. This request for information as to the practicability of Trinidad being a free labour colony was prompted in part by representations by the elder James Stephen. *Brigadier-General Picton* had been appointed military Governor of Trinidad in 1797, on its surrender. In July 1802 he was informed that he was to be one of three commissioners for the government of the island, with Colonel Fullarton and Captain Hood as the other two. He quarrelled with Fullarton, resigned in 1803, and was succeeded to the military command by Frederick Maitland. Picton stood trial on Fullarton's charges for cruelties permitted under his governorship in 1806.

to other than the common modes for the settlement and improvement of that valuable acquisition. I am therefore desirous of learning from you whether it would not be practicable to induce the Indian inhabitants of the continent, either by the mode of payment or in the proportion of remunerations for their labour, to come to the island, *in very considerable numbers*, as I understand they do at present in small gangs for the purpose of felling the trees. Few, I believe, have as yet been persuaded to establish themselves; but I am not without hopes, that their natural repugnance to settling out of their native country might be overcome by the good treatment and advantages they would experience under a British Government, and the certainty of constant employment that might be assured to them, by their gang being called upon to clear on the account of Government, whenever unemployed by individuals. The revenues of the island would furnish any advances that might be necessary for this purpose, and the increased value of the land when once cleared, would reimburse the advances, so made.

With regard to the introduction of settlers for the general cultivation of the island, I wish to be informed of your opinions as to the possibility of establishing a colony of white inhabitants of the labouring class for the purpose of bringing the hilly and most healthy parts of the country into early cultivation. If you should judge this measure practicable to any extent, I desire you will state your ideas as to the most advisable way of carrying it into effect. Another mode of assisting towards the population and improvement of Trinidad may be found in the establishment upon the plains and low grounds of some of the most deserving and trustworthy soldiers of the West India regiments.

The first description of persons stationed in the higher grounds and formed into Volunteer Corps of Militia, would I conceive constitute a sufficient check on the free negroes, who might only be called upon to enrol themselves for the general defence of the colony, in conjunction with and under the immediate eye of the whites. If a system of colonization on this or some similar plan should prove, as it seems to me to be, feasible in execution, the fairest opportunity of carrying it into effect is offered by the great scale of vacant lands to be disposed of in Trinidad; and the mode and terms of disposing of the lands in question would of course be regulated with reference to this object.

I do not here advert to the introduction of the more general use of cattle, because, when the ready means of obtaining them is considered, I conceive it to be [a] necessary consequence of the above system. I only wish now to throw out these general suggestions of a groundwork of colonization which offers to my mind incalculable advantages to Trinidad in particular, and ultimately to all the West Indian settlements. You will be pleased to cause a statement of the present revenue of the island to be drawn out, which you will transmit to me for His

Majesty's information, with such observations and suggestions as you may judge necessary to elucidate the subject. . . .

11

TRINIDAD: GEORGE CANNING TO WILLIAM WINDHAM, 23 May 1802[1]

South Hill, Sunday.

. . . There remains only to speak of Trinidad. My motion comes on next Thursday.[2] I do not ask you to attend (even supposing your present uncomfortable feelings and embarrassment to have subsided a little), because I would much rather you should be absent than oppose me. But yet I think you would *not* oppose me. The ground which I chiefly rest upon is not the abolitionist, anti-negro-baiting ground of which I know you are afraid; but simply this—that in the present state of the colonies we ought to look for *strength* rather than rapid augmentation of wealth, that we have our choice whether to make Trinidad a new sugar-growing, negro-driving colony, productive indeed, but weak and exposed, and inviting attack in proportion,—or to create there a place of military strength, a fortress for the defence of our other colonies, and to lay the foundation of a new system of colonization for future military purposes. I think I can prove this. I may be mistaken; but if I go *near* to prove it, you will not be against our making the trial.—Observe however that I state this to you for your particular information only. Do not betray me to the enemy. I had rather they should come prepared only to hunt negroes.—In addition to this, I think I can show an unnecessary waste of human (i.e. negro) life in the sugar-settlement of Trinidad, at which the most cold-blooded panegyrist of Exports and Imports ought to hesitate. But this is merely *subsidiary*. The argument upon which I should rely *with you*, is the other. And whether I convince you or not, I can assure you, and do most solemnly, that I am in my conscience convinced myself of the truth of what I contend for. This sometimes is the best chance of convincing others. . . .

[1] Add. MSS. 37,844, f. 295. Printed in *The Windham Papers*, ed. Earl of Rosebery, Lond. 1913, vol. ii, pp. 191–2. *George Canning* had been Under-Secretary for Foreign Affairs from 1796 to 1799 and Paymaster-General from 1800 to 1801 in the Pitt administration. He followed Pitt into opposition when Addington formed his Ministry. *William Windham* had been Secretary of State for War from 1794 to 1801. From 1806 to 1807 he was Secretary of State for War and the Colonies under Lord Grenville.

[2] Canning had already moved in April for papers on the matter of free cultivation in Trinidad. On 27 May he introduced a motion that no lands should be granted there unless there was an express condition in the grant that no slave labour should be used in their cultivation. This was, he said, an implementation of the resolution of 1792 that committed the House to seek a gradual termination of the slave trade (*Parl. Hist.*, vol. xxxvi, 878 ff.).

12

RESOLUTION OF THE HOUSE OF COMMONS

10 June 1806[1]

That this House, conceiving the African slave trade to be contrary to the principles of justice, humanity and sound policy, will, with all practicable expedition, proceed to take effectual measures for abolishing the said trade, in such manner and at such period as may be deemed advisable.

13

JAMAICA: LORD CASTLEREAGH TO GOVERNOR THE DUKE OF MANCHESTER, 19 January 1808[2]

. . . It is with much concern that His Majesty has observed the tone of the Resolutions which have been lately entered into by the Assembly of Jamaica on the subject of the law for the abolition of the slave trade; but he trusts they may be considered as merely temporary effusions of warmth upon a measure which they consider, however erroneously, destructive to their personal interests and not as deliberate resolutions for their permanent conduct.

In this view of the proceeding of the Assembly it is not wished that any formal notice should be pointedly taken which would make it necessary to enter into further discussion of the legislative right of control and superintendence of the Imperial Parliament in all cases where taxation is not concerned. That superintendence will never be exercised, but in cases conducive to the true liberties of the Island and for the increase of the happiness of all the classes which inhabit it and which are all entitled in their several relations to the protecting care of the mother country. At a time like the present when it is found that by the too great increase of colonial produce the markets of the world are overstocked and the price proportionally reduced, an experiment for putting an end to a traffic attended always with inhumanity and injustice, may be tried with the least possible danger

[1] *Parl. Debates*, vol. vii, 585. This resolution, echoing those which Wilberforce had moved year after year in vain, was introduced by Fox and passed by a vote of 114 to 15, Castlereagh and Windham voting with the minority. Wilberforce immediately followed the division with a motion for an Address to the King for the negotiation of a joint declaration by the concert of powers in favour of international abolition of the trade. Grenville on 24 June moved the same resolution as Fox's in the Lords. Though even at the last moment there were attempts, on the grounds of expediency, to postpone and avert abolition, the Bill became law in March 1807 (46 Geo. III, sess. i, cap. 36).

[2] C.O. 138/43, pp. 340–4. The *Duke of Manchester*, 'a traditional West India grandee', was Governor of Jamaica from 1808 to 1827. 'Coarse, vulgar, stupid' was Huskisson's estimate of him.

to the interests of the colonies; it becomes in this case the interest of the West India planters to prevent the increase of cultivation and the breaking up of new lands. The existing stock of negro labourers being sufficient for a cultivation found already too extensive, it naturally occurred that by due attention to management and morals the present number of slaves might be kept up without further importation. And as it is known that on several estates the negro population increases, it is believed that by due management that increase may be made general. His Majesty therefore feels a just confidence that when the first moments of apprehension and alarm shall have subsided, the subject will be considered in its true light, and as the planters must see that a more extensive cultivation will merely tend still more to clog the market and reduce the price of commodities, they will be reconciled to a measure which excites them to a generous attention to their labourers as the surest means to maintain and increase their number. . . .

[He recommends an increase in food production.]

. . . I am also to direct Your Grace to recommend the utmost attention to the increase of marriages among the slaves and to the rearing of the children. . . .

[He calls for an inquiry into tetanus, the cause of so much infant mortality, and expresses the opinion that it may be due to working pregnant or nursing mothers too long.]

. . . It might also be attended with good effect if a premium were held out to the planter who at the expiration of 5 years from the present time should have the greatest number of children alive which shall have been born within the period in proportion to the number of his slaves. . . .

14

MAURITIUS: GOVERNOR ROBERT FARQUHAR TO LORD LIVERPOOL, 15 February 1811[1]

Port Louis, Isle of France.

. . . The subject of slavery is of itself so important, and, as it relates to these colonies now held under a capitulation, is so peculiarly interesting, that I feel it my duty to make it a particular topic of observation.

[1] *Parl. Papers*, 1812–13 (50), vol. xiii, pp. 241–2. That Farquhar was later elected a Vice-President of the African Institution perhaps explained the unwonted severity with which Buxton attacked him in 1826–8 for culpable negligence in permitting the continuation of the slave trade. It seems likely that Farquhar did not know in February 1811 the contents of the Abolition Act (though Liverpool replied in haste in May to correct him). What is clear is that there was in Mauritius at that period and even later a fairly general determination to disregard it as inconvenient.

Although the slave trade be done away by the British legislature, as well as by some other nations, yet still slavery is known throughout the world, and forms a special head of law even in some of the British colonies in the East Indies; and it is impossible to conceive how some of those establishments could be upheld without it, where labour of every kind is so dear. . . .

I believe it has generally been agreed, that a British Act of Parliament does not extend to a colony, unless that colony be specially mentioned, either by name or general inclusive words; and that an Act made previously to the acquisition of a colony, and which, therefore, it could not be in the contemplation of the legislature to bind at the time of passing the Act, will not, generally speaking, bind the colony acquired subsequently to the making of the Act.

Besides those general positions, my instructions were to grant these islands, on capitulation, their laws, customs and usages; they have been granted in express terms by the capitulations. Those laws, customs and usages, recognize not only slavery, but the slave trade; without that trade, or some other substitute or remedy, these colonies promise shortly to be annihilated, and the inhabitants are likely to be rendered desperate, if the supply of slaves be refused them. Another point occurs worthy particular notice, which is, that notwithstanding the British Slave Act, His Majesty was, as I understand,[1] pleased to suffer and sanction the slave trade upon a modified scale, to be continued for the island of Trinidad, or some places in the West Indies.

As these matters press for a most speedy decision, I beg leave to request your instructions on the subject generally, with all convenient expedition. While writing on topics of this nature, I deem it proper, in regard to myself, to state that I am not by any means disposed to be a supporter of slavery; and while political considerations and my immediate duty call upon me to forward this communication, I have looked on the other hand with the feelings of humanity, upon the slave, and endeavoured, in every practicable instance, to alleviate the burthens of his condition; to which I must add, that, from observation, I am happy to bear this testimony to the character of the inhabitants of the Isles of France and Bourbon, that I believe they are not by any means cruel masters. At the same time, however, that I do them this justice, I have judged it proper to order, that where slaves be to be chained for security or punishment, these chains shall not be heavier than are indispensably necessary to secure the person of the slave; and in the event of proprietors transgressing this order, the slaves are to become forfeited to the use of Government. . . . It must not be disguised, however, that any sudden alteration, or an ill-timed display of sympathy, might be attended with the worst effects at a moment like the present, by strengthening the impression which

[1] Farquhar was mistaken. An Order in Council of 13 September 1805 abolished the slave trade to conquered colonies before the general Act of abolition.

appears to have existed in a considerable degree in these colonies, that the arrival of the English was to be the signal of emancipation, and the release of the slave from all obligation towards his master. . . .

15

REPORT FROM A SELECT COMMITTEE OF THE HOUSE OF COMMONS, 12 June 1811 [1]

The Committee appointed to consider of the practicability and expediency of supplying our West India colonies with free labourers from the East; and to report their opinion thereupon, to the House;—

Have proceeded to investigate the subject submitted to their consideration; and having examined such persons and documents as appeared most likely to furnish them with the best information upon the different points connected with it, they are of opinion, that the general result of their enquiries may be comprised under the following heads. . . .

[Though contrary to Chinese law, there is a great disposition for the Chinese (who are orderly and industrious) to emigrate. There seems to be no reason why the Chinese should not extend their emigration to the West Indies.]

Your Committee are fully impressed with the important advantages which might, under proper arrangements, be expected to result to those islands, from the introduction of a class of free people, so distinguished by their orderly and industrious habits.

Your Committee however cannot but feel that the execution of any project of this description would be attended with no inconsiderable difficulties: the most important of these would be the procuring females to accompany the male emigrants; a condition which your Committee consider absolutely indispensable, on account of the nature as well as the limited amount of female population in the West Indies.

In the East, the Chinese have always found, either in the countries to which they have emigrated, or in countries bordering upon them, a female population, to which similar objections do not apply; but your Committee have not sufficient means of judging how far it would be practicable to induce females of those countries to accompany the Chinese, in their more distant emigrations to the West Indies. . . .

It is to be observed also, that as the introduction of a new class of inhabitants into our colonies could hardly meet with success, if the colonial legislatures were indisposed to favour it, it would, in the opinion of your Committee, be expedient that those legislatures

[1] *Parl. Papers*, 1810–11 (225), vol. ii, pp. 1–2.

should be consulted, previous to the adoption of any measure for such purpose.

Your Committee do not represent these difficulties as insuperable; but they conceive it must be left to the executive Government to ascertain how far they can be removed or overcome. Whilst therefore your Committee would suggest, that it would be very desirable that the executive Government should bear in mind the advantages which might follow in the West Indies, from the introduction of a new class of free people, they do not consider themselves as authorized, in the present state of the question, to recommend any specific plan to the consideration of the legislature.

16

INSTRUCTIONS GIVEN BY THE LONDON MISSIONARY SOCIETY TO THEIR MISSIONARIES IN THE WEST INDIES, 1812[1]

No. 9 Old Swan Stairs, London.

. . . You are going to preach the Gospel to poor Africans in a state of slavery to man. They have been torn from their native country and reduced to a low and degraded situation. As such they will be the objects of your commiseration. But it is not to relieve them from their servile condition that you visit them. That is out of your power. Nor would it be proper, but extremely *wrong*, to insinuate anything which might render them discontented with a state of servitude or lead them to any measures injurious to their masters: this would be to defeat the object of your mission and excite such opposition as might eventually prevent many other missions. These poor creatures are slaves in a much worse sense; they are the slaves of ignorance, of sin, and of Satan; it is to rescue them from this miserable condition by the Gospel of Christ that you are now going. . . .

[1] C.O. 111/13, Miscellaneous Section. These instructions are enclosed in a letter of George Burder, L.M.S. Secretary, to Liverpool, dated 28 January 1812. He states that they were first given to the Rev. John Wray on 23 November 1807 when he was being sent to an estate named Le Resouvenir in Demerara. His successor at the mission station was John Smith, the martyr.

An instruction against political activity was common to all the missionary societies: the secular power was ordained of God. Of slavery itself Richard Watson, Secretary of the Wesleyan Missionary Society, wrote that not one of the missionaries did not 'most fully believe that a speedy emancipation of the slaves would be as injurious to the slave himself, as dangerous to the colonies' (*A Defence of the Wesleyan Methodist Missions in the West Indies*, Lond. 1817, p. 144).

17

TRINIDAD: PROCLAMATION BY GOVERNOR WILLIAM MONRO, 31 August 1812[1]

. . . The inhabitants of this island are hereby publicly notified that by the said royal ordinance or cedula it is ordered that within one calendar month from and after the date of this proclamation, every person resident in this island, and who shall be in possession of any plantation, slaves or slave, within the same, whether as proprietor, mortgagee, trustee or receiver, manager or attorney, whatever their title, trust or interest therein may be; or who shall own or possess any slave or slaves whatsoever within this island, whatever his or her tenure of, or title to the same may be, shall respectively make and personally deliver, upon oath, [a full return] either to Henry Murray Esquire, duly appointed according to the said royal ordinance or cedula, Registrar of slaves, or to some other person that shall be by him appointed and deputed to receive the same, in the proper district of this island in which the party to make the same shall reside. . . .

18

LORD CASTLEREAGH TO LORD LIVERPOOL 25 October 1814[2]

My Lord, Vienna.

I think it right to acquaint your Lordship, that notwithstanding the Duke of Wellington's repeated agitations of the question at Paris, and my own representations to Prince Talleyrand here, no answer whatever has yet been returned to my official note of the 8th instant on the Slave Trade.

The more I have occasion to observe the temper of foreign powers on the question of the abolition, the more strongly impressed I am with a sense of the prejudice that results not only to the interests of the question itself, but of our foreign relations generally from the display of popular impatience which has been excited and is kept up in England upon this subject.

It is impossible to persuade foreign nations that this sentiment is unmixed with views of colonial policy, and their Cabinets, who can better estimate the real and virtuous motives which guide us on this question, see in the very impatience of the nation a powerful instru-

[1] C.O. 298/5. *Major-General William Monro* was Governor of Trinidad from 1811 to 1813, and was succeeded by Sir Ralph Woodford.

[2] F.O. 92/7. Printed in C. K. Webster, op. cit., p. 215. See also Wilberforce and Castlereagh in the debate on the London petition respecting international abolition and the Address to the Prince Regent on 27 June 1814: *Parl. Hist.*, vol. xxviii, 268–84.

ment through which they expect to force, at a convenient moment, the British Government upon some favourite object of policy.

I am conscious that we have done an act of indispensable duty, under the circumstances in which we have been placed, in making to the French and Spanish Governments the propositions we have done, but I am still more firmly persuaded, that we should be at this moment in fact nearer our object if the Government had been permitted to pursue this object with its ordinary means of influence and persuasion instead of being placed in the predicament of being expected to purchase concessions on this point almost at any sacrifice.

It will be my duty as it will be my personal pride to employ every possible effort to further this object, but I never can cease to feel, that the manner in which the efforts of the Government in this cause were last year received, and the coldness, if not the tone of disapprobation, in which the most efficient arrangements towards a final abolition which had yet been achieved were met both in Parliament and in the country, has neither augmented our means of discharging our public duties upon this, nor on any other question of foreign policy. . . .

Your Lordship is sufficiently apprised of the state in which matters have hitherto stood here, to be aware that I could not possibly have brought this question hitherto into discussion. I shall seize the first favourable moment for doing so, but for the reasons already stated, I had rather not hazard a decision till the principal questions of a political nature are at least further advanced towards a decision. . . .

19

BARBADOS: RESOLUTION OF THE HOUSE OF ASSEMBLY, 17 January 1816[1]

First. Resolved that this House having received from its agent in London the copy of a Slave Registry Bill lately introduced into the House of Commons, conceives itself most urgently called upon to protest against the infringement which this Bill attempts on the rights of our colonial legislature.

Second. Resolved that the allegation contained in the said Bill, namely that there is an illicit importation of slaves into the West Indies, as far as it respects this Island, is totally void of foundation, this House feeling the most thorough conviction that the only Africans imported here, since the abolition of the slave trade, have been either brought in as prize to His Majesty's Navy or for the purpose of recruiting His Army.

Third. Resolved that although the ostensible object of the Bill is to obtain a registry of slaves, it obviously proposes to attain that by

[1] C.O. 28/85, Miscellaneous Section.

imposing a tax upon every slave proprietor within the colony in manifest violation of that sound and just principle of the British Constitution that 'representation and taxation are inseparable'. . . .

Fifth. Resolved that although there is an Act at present in force in this Island, which requires under a heavy penalty, the annual return upon oath of the slaves of each proprietor; yet to evince the cordial desire which this House feels to cooperate in any measure deemed necessary for carrying into effect the Acts of the Imperial Parliament for abolishing the slave trade, it declares that it is most willing to adopt by an Act of the legislature of this Island such parts of the Registry Bill as are compatible with the legitimate rights and local circumstances of the inhabitants of this Island and which may be more adequate to ascertain the slave population. . . .

20

BARBADOS: COLONEL EDWARD CODD TO GOVERNOR SIR JAMES LEITH, 25 April 1816[1]

St. Anns.

. . . I cannot however conclude this report to your Excellency without observing that from the many enquiries which I have made of the slaves in general, as well as from the evidence and confession of those who have been taken prisoners, it is fully ascertained that the chief cause to which this unfortunate calamity is to be attributed is the general opinion, which has pervaded the minds of those misguided people, since the proposed introduction of the Registry Bill,[2] that their emancipation was desired by the British Parliament. And this idea seems to have been conveyed by mischievous persons, and the indiscreet conversation of individuals on the measure.

I am happy to state that though I very particularly enquired how far ill treatment might have urged them to revolt, yet I never heard it assigned as a reason by any of them, but on the contrary it was acknowledged by all whom I spoke to or examined that they had been well treated. They maintained however to me that the Island belonged to them, and not to white men, whom they proposed to destroy, reserving the females, whose lot in case of success, it is easy to conceive. . . .

[1] C.O. 28/85. *Lieut.-Colonel Codd* was in command of the Barbadian militia and had shown promptitude, humanity, and vigilance in putting down the insurrection there, for which the Assembly voted him a present of £1,000. *Sir James Leith, K.B.*, was Governor of the Leeward Islands and Lieut.-Governor of Barbados from 1814 until his death in 1816.

[2] In November 1815 the Speaker had announced to the members of the Assembly that a Bill had been introduced into the House of Commons to establish a Registry of Slaves in all slave colonies. The insurrection broke out on Easter Sunday, 14 April 1816, in the Governor's absence, and caused imperial exhortation to take the place of legislation. The Barbadian Assembly, however, had already passed a Registry Act.

21

CIRCULAR DISPATCH FROM LORD BATHURST TO CERTAIN WEST INDIA GOVERNORS, 28 June 1816[1]

SIR,

You will have observed that the Slave Register Bill, which at the close of the last session was brought in and read the first time in the House of Commons, has not during this session been introduced into Parliament. This forbearance however has not arisen either from any doubt of the expediency of some measure being adopted of this description, or of the right of Parliament to require a registration of slaves in the colonies, and to enforce obedience to such a provision. The 18 Geo. 3rd. cap. 12, which makes an exception, proves the general right of legislation over the colonies, and if some clauses of the Slave Register Bill, as it was introduced at the close of the last session, transgress the limits which Parliament prescribed to itself by that Act, no difficulty would arise in making such alterations as would obviate that objection, and leave the Bill equally efficient. The intention of again introducing the Bill this session was suspended mainly in consequence of the assurances given by His Majesty's Government that there existed a sincere disposition in the several legislative bodies in the West Indies to pass an Act in their respective Assemblies for this important object; and I thought myself authorized to give these assurances from all the communications which I officially received from Jamaica and the Leeward Islands, and from the declarations made by those in this country who are most likely to be well informed of the sentiments and disposition of the colonies in question.

Under these circumstances, His Majesty's Ministers were anxious to discourage the agitation of this question again in Parliament, lest it might give occasion for irritation and alarm, and provoke an opposition to the adoption of some measure on this subject in the Legislative Assemblies which they confidently hope will not now be experienced. I must therefore rely on you to bring this question forward before the House of Assembly of —— in such a manner as will be most likely to ensure to it an early attention and a successful result.

You will in the outset make it to be clearly understood that it is not the manumission but the registration of slaves which this measure purports to effect. You will distinctly disclaim any intention on the part of His Majesty's Government hereby to propose an emancipation of slaves; and you will impress as strongly as possible upon those whom it may concern that the confounding a measure for the registration

[1] C.O. 29/30, pp. 29–39. Sent to those colonies having legislatures, i.e. Barbados, Antigua, St. Kitts, Grenada, Dominica, St. Vincent, Tobago, Jamaica, and Bahamas.

of slaves with a measure for their emancipation has proceeded only from an entire ignorance or a mischievous misrepresentation of that which you are instructed to recommend. This explanation has become the more necessary, as great industry has, I am aware, been exerted to blend these objects together; and it is not fit that the pleasure of the Prince Regent, acting in the name and on the behalf of His Majesty, should be misapprehended on so essential a subject. . . .

No evidence has been brought of any systematic violation of the abolition laws in the British West Indies. . . . At the peace, most of the captured islands have been restored, and although the powers to whom they have been restored have concurred in the prohibition of the slave trade, we cannot have the same assurance that such a traffic has no existence in some of their possessions. Single vessels may now navigate with more freedom. Suspicion is not thereby excited, and even if it were, search would be unauthorized. Under these circumstances, a systematic evasion of the laws may gradually grow up, prejudicial to the best interests of the planters, contrary, I am confident, to the wish of a large majority of them, and derogatory to the honour of this country; for, if we are bound on every principle of humanity to make these laws efficient, we are bound on every principle of honour too not to expose the country to the shame of being justly reproached with permitting the trade in slaves to exist in our own colonies, while we are requiring every other country in Europe to abandon it.

I need not I am sure point out to you how desirable it is on every account that some regulation should be adopted by the Legislative Assemblies, rather than by an Act of the British Parliament. In its provisions the feelings and habits of the inhabitants will be much better consulted, and its execution secured in a manner less burthensome to the planters. . . .

On the other hand, I cannot conceal from you that the refusal to pass any measure on this subject, or the passing one altogether nugatory, would confirm the suspicion of those who have been taught to believe that the evil actually exists, and that it is mere delusion to expect any redress from colonial legislatures.

A registration of slaves would not be efficient, 1st. if it were purely numerical, 2ndly. if it were not duly enforced, and 3rdly. if provision were not made for the transmission of an authenticated copy of it to the Colonial Department in Great Britain. . . .

In the present agitated state of the population in the West Indies, the interference of the British Parliament on a question of this description is so capable of being misunderstood, that it cannot be sufficiently deprecated; yet I cannot withhold from you my opinion that this interference cannot be successfully resisted if the measure were to be rejected by the Legislative Assemblies of the colonies. . . .

22

JAMAICA: GOVERNOR THE DUKE OF MANCHESTER TO LORD BATHURST

20 December 1816[1]

King's House, Jamaica.

. . . The consolidated Slave Law has been revised and some new enactments made which will contribute to the comfort and advantage of the slaves, and, so far as it manifests a disposition to consider the subject, it is well, but it does not extend so far as it ought to do.[2] The principal objects of it are to ensure twenty-six days in the year to the slaves exclusive of Sundays and holidays, some very judicious regulations giving facility to the establishing the freedom of slaves manumised by will, and a regulation to prevent persons detained in custody on account of not being able to produce proofs of their freedom being sold without due enquiry and examination. There were however two material points which have been objected to and which the Council endeavoured to obtain, of which one was to put an end under the severest penalties to the use of any collars or instrument of iron on the person of a slave, whether intended as a punishment or as a prevention from escape; but all that could be effected has been, that no collar can be put upon a slave except by order of a magistrate; a precaution which will be constantly evaded. The other point was to have a duration clause, so as to render it necessary that the subject should be necessarily reconsidered within a limited time. This however was refused. And I am sorry to say that there appears a tenacity of opinion and sentiments on the subject of the slave code, and a disinclination to adopt new regulations adapted to the improved state of civilization to which the negroes have arrived, which it is difficult to reconcile to the professions which have been constantly made of their readiness to accede to any practicable mode of improving the condition of the slave population. . . .

23

CAPE COLONY: LORD BATHURST TO ACTING-GOVERNOR SIR RUFANE DONKIN, 20 May 1820[3]

SIR,

It being of the highest importance to prevent on the one hand any further introduction of slaves into the settlement under your

[1] C.O. 137/142.

[2] James Stephen, the younger, as legal adviser to the Colonial Department, reported that the Act was likely rather to create than to obviate uncertainty as to the existing law.

[3] C.O. 49/12. Printed in *R.C.C.*, vol. xiii, p. 135. *Major-General Sir Rufane*

Government,[1] and on the other to promote the cultivation of land by means of free labourers, I have to signify to you His Majesty's pleasure that in any further grants of land which you may have occasion to make in the district of Uitenhage, or in any other settlements either to the *northward* of that district, or more immediately on the frontiers of Cafferland, you should make it a special condition of the several grants, that the lands so granted should be cultivated by free labourers alone, and that any employment of slaves upon them should render the lands subject to forfeiture.[2] . . .

24

SIR THOMAS FOWELL BUXTON TO R. J. WILMOT HORTON, 15 April 1823[3]

Spring Gardens Hotel.

MY DEAR SIR,

A severe indisposition is, I think, some, though a poor, apology for not having performed my promise of writing to you.

On the subject of the line I shall take about slavery, I must confess that my views are not absolutely determined, but, such as they are, I will state them. You will not, however, consider me absolutely and closely bound to them.

The subject divides itself into two parts:—the condition of the existing slaves, and the condition of their children.

With regard to the former, I wish the following improvements.

1. That the slaves should be attached to the island, and, under modifications, to the soil. 2. That they cease to be chattels in the eye of the law. 3. That their testimony be received *quantum valeat*. 4. That when anyone lays his claim to the services of a negro, the *onus probandi* should rest on the claimant. 5. That obstructions to manumission should be removed. 6. That the provisions of the

Donkin acted as Governor in the absence of Lord Charles Somerset between 1820 and 1822 and remained a thorn in Somerset's side when, on his return, he sought to win Boer support by reversing Donkin's measures.

[1] In contrast to plantation slavery in the West Indies and Mauritius, observers concluded that domestic slavery at the Cape was different in kind and in degree. Governor Cradock in March 1814 (*R.C.C.*, vol. ix, pp. 451–2) reported that it was of 'a mild nature', but conscious of the abuse of domestic authority and the partiality of the Courts to slave-owners, he recognized the urgent need to admit slaves as witnesses.

[2] Somerset sought on his return to limit the operation of this ban to the new English settlers and to Albany alone, instead of allowing it to apply to the frontier districts as a whole. For cases arising from this prohibition see C.O. 48/106.

[3] *Memoirs of Sir Thomas Fowell Buxton*, Lond. 1848, pp. 128–9. *Sir T. F. Buxton*, M.P., had impressed Wilberforce by his support for Macintosh's reform of the criminal laws, and had been chosen to lead the parliamentary campaign for amelioration that began in 1823. This letter was sent to the Government in readiness for the motion for the gradual abolition of slavery which he introduced on 15 May (see *Hansard*, vol. ix, 273).

Spanish law (fixing by competent authority the value of the slave, and allowing him to purchase a day at a time) should be introduced. 7. That no Governor, judge, or attorney-general should be a slave-owner. 8. That an effectual provision should be made for the religious instruction of the slaves. 9. That marriage should be sanctioned and enforced. 10. That the Sunday should be devoted by the slave to repose and religious instruction; and that other time should be allotted for the cultivation of his provision grounds. 11. That some (but what I cannot say) measures should be taken to restrain the authority of the master in punishing his slaves; and that some substitute be found for the driving system.[1]

These are the proposed qualifications of the existing slavery; but I am far more anxiously bent upon the extinction of slavery altogether, by rendering all the negro children, born after a certain day, free; for them it will be necessary to provide education.

God grant that His Majesty's Ministers may be disposed to accomplish these objects, or to permit others to accomplish them! . . .

25

MINUTES OF THE WEST INDIA COMMITTEE OF PLANTERS AND MERCHANTS

April and June 1823[2]

22 April 1823 [West India Club House]

The Chairman[3] read certain resolutions of the West India Association of Liverpool, on the notice lately given in the House of Commons by Mr. Buxton for the Committee to enquire into the condition of the negroes in the West Indian colonies, which had been transmitted to him by the Chairman of that Association.

He then stated that the subject had also engaged his serious consideration and that he had prepared resolutions on the same subject which, with the permission of the meeting he would read—he then read the resolutions as follows—

Resolved, that this committee cannot but view with the greatest alarm the motion, of which notice has been given in the House of

[1] It is to be noted that no recommendation is made for the total abolition of the whip in the case of female slaves. The temerity of the Government (following the lead of the West India Committee) in recommending it alarmed abolitionist leaders as 'positive madness' where other discipline or sanction was wanting.

[2] W.I. Committee MSS. (West India House): Minute Book of the Standing Committee, vol. v.

[3] *Charles Ellis*, a close friend of Canning, was the leader of the West India interest in the Commons. He had been elected to Parliament first in 1796, and had been largely responsible for the motion for amelioration in April the following year, which, as again here in 1823, revealed the clear division of opinion between the West India legislatures and the absentee proprietors.

Commons, for a committee to enquire into the condition of the negroes in the West Indian colonies, with a view to the adoption of a plan for their emancipation. . . .

They view, with the greatest alarm, the effect which may be produced on the minds of the negroes by the reports which will reach them—liable to be both misinterpreted and misunderstood—of the discussion of such a question in Parliament. The nature and extent of this danger is so obvious and so unquestionable, that it is quite superfluous to dwell upon them.

With a view, therefore, of overriding this danger, they conceive that the best course would be for the executive government to undertake some systematic plan for the improvement of the condition of the negroes in those colonies which are under their immediate jurisdiction, and to recommend, and enforce with all their influence, the adoption of similar plans by all those colonies which are governed by local legislatures—a course, by which, without incurring the risk attending the agitation of this question, every practical and substantial purpose of humanity may equally be effected. . . .

[A sub-committee was appointed to confer with the Ministry and to recommend 'such measures as it might be proper and expedient to adopt in the colonies'. The recommended measures included: greater facilities for religious instruction, the abolition of Sunday markets, the abolition of female flogging, the prohibition of the driving whip in the field as a symbol of authority, the supervision of punishment by flogging, the keeping of a punishment record, the protection of slaves with complaints against their masters, the security of slave property, the admission of slave evidence in certain conditions, the facilitation of manumission, &c.]

9 June 1823.

[The sub-committee agreed to the following Report, which was to be transmitted to the West India Assemblies:]

. . . They cannot disguise from the Assembly, that there is a prevailing notion throughout the public that a system ought to be adopted for improving the condition of the negroes by affording them more time and opportunities for receiving religious instruction, more inducement to the practice of moral duties, by holding forth the attainment of civil rights and privileges as the reward of them—more security against unnecessary severity of punishment, and more facility in purchasing their freedom. They lament to say that a deep and general, though undoubtedly most unjust and unmerited, impression has been created that the colonial legislatures have been hitherto very remiss, and that what they have done, has been done rather with the hope of temporizing than with the intention of realizing the expectation of the British public, and of raising the negro in the scale of society. Notwithstanding the injustice of such a feeling, it is not less the part of prudence to consider the consequences, and to do all in our power to remove such a prejudice against the West Indian local governments.

The only mode of accomplishing these objects, will be for the

legislatures to anticipate those measures which will otherwise inevitably and speedily be pressed upon them, by conforming to the spirit of the resolution of the House of Commons and by enacting and enforcing all such regulations for the improvement of the condition of the negroes, as in their judgment can be adopted consistently 'with the safety of the colonies, and with a fair and equitable consideration of the interests of private property'.

In addition to every other inducement to such a course, it is manifestly essential to the public tranquillity of the colonies that the negroes should look up to those who have immediate authority over them, and not to the British Parliament, British Government or British public—as their protectors—and as the authors of any indulgence or benefit which can be extended to them—that as the odium of severity and punishment must fall on the resident gentlemen, the grace and merit of an act of benevolence should be theirs also.

If such a course should not be adopted by the colonial legislatures the committee can only look forward to constant and angry discussion in the House of Commons, endangering at every moment the safety of the colonies—and ultimately to some decided act of interference by the British Parliament, to which the government will inevitably be driven by the force of public opinion.

In the meantime no West Indian question, not even such as relate to objects purely commercial [and appeals for relief], will be listened to with favour, or even with common justice, by the great body of the British public. The proposition of equalling the duties of East and West Indies sugar, though rejected by a large majority, has been announced as intended to be renewed—and any further irritation of the public mind, might produce a fatal change in the decision of Parliament. . . .

It is idle to disguise from ourselves that the various parties who from different motives are hostile to the West Indian interests, are at least as careful, and act upon a more extensive system, and with greater means of influence, on the public mind, than the proprietors and merchants connected with the colonies; all ministers must be more or less dependent on public opinion and Parliament, and consequently as much disposed to ingratiate themselves with such classes as with us; we cannot, therefore, beat them by influence—we must trust to reason—and the only way of getting that weapon in our hands is by doing of ourselves and by ourselves, all that is right to be done, and doing it speedily and effectually. . . .

26

RESOLUTIONS OF THE HOUSE OF COMMONS

15 May 1823[1]

Resolved,

That it is expedient to adopt effectual and decisive measures for meliorating the condition of the slave population in His Majesty's colonies.

That through a determined and persevering, but at the same time judicious and temperate enforcement of such measures, this House looks forward to a progressive improvement in the character of the slave population, such as may prepare them for a participation in those civil rights and privileges which are enjoyed by other classes of His Majesty's subjects.

That this House is anxious for the accomplishment of this purpose at the earliest period that shall be compatible with the well being of the slaves themselves, with the safety of the colonies, and with a fair and equitable consideration of the interests of private property.

Ordered, that the said resolution be laid before His Majesty by such Members of this House as are of His Majesty's most honourable Privy Council.

27

BRITISH GUIANA: LORD BATHURST TO GOVERNOR JOHN MURRAY AND LIEUT.-GOVERNOR HENRY BEARD, 28 May 1823[2]

SIR,

I take the earliest opportunity of communicating to you the Resolutions which were unanimously agreed to by the House of Commons

[1] *Hansard*, vol. ix, 285–6. Printed in *Parl. Papers*, 1824, vol. xxiv, p. 434. Moved by Canning in reply to Buxton's Resolution of the same date, which declared that slavery was repugnant to Christianity and to the British constitution and ought to be gradually abolished with as much expedition as possible (*Hans.*, vol. ix, 274). Canning succeeded in shelving the principle of child emancipation (which Buxton's private zeal had stressed) and in giving pride of place to that of amelioration, which was then more in accordance with the general wishes of the so-called abolitionist body. As total emancipation became their objective they began to realize that Canning's tactics had immobilized them—and in time to curse the vague ineffective 'pledge of May 1823'.

[2] C.O. 112/5, pp. 171–6. *Major-General Murray* succeeded Carmichael as Governor of Demerara in 1813. He had previously been Lieut.-Governor of Berbice, where he was succeeded by *Henry Beard*. A copy of this dispatch was sent to each of the West Indian Governors. In the case of territories enjoying representative institutions the Governor was enjoined 'to recommend similar measures to the consideration of the colonial legislature whenever that body may assemble' (C.O. 29/30). A secret circular of the same date enclosed a Proclamation which should be issued at discretion if the slave population seemed to misunderstand the Resolutions

on the 15th inst. and in order that you may better understand not only the general impression of the House in coming to these Resolutions but more particularly the principles which have guided His Majesty's Government in proposing them, and which will continue to guide them in the measures to be adopted for the furtherance of the important objects to which they relate, I have enclosed the best report that I can procure, although it may not be altogether a correct one, of the speech of Mr. Secretary Canning.

I do not propose in this despatch to call your immediate attention to all the subjects to which that speech refers; but to confine myself to one of those points on which I have not found that any difference of opinion exists; and which being simple in its nature may be at once adopted vizt. an absolute prohibition to inflict the punishment of flogging under any circumstances on female slaves. The system of meliorating the condition of slaves to which His Majesty's Government stands pledged by these Resolutions, cannot better commence than by the adoption of a principle which by making a distinction of treatment between the male and female slaves cannot fail to raise this unfortunate class generally above their present degraded level, and to restore to the female slaves that sense of shame which is at once the ornament and the protection of their sex and which their present mode of punishment has tended so unfortunately to weaken if not to obliterate.

I should therefore have communicated to you His Majesty's commands that the punishment of flogging should for the future cease with respect to females had I not been desirous that the prohibition should proceed from the Court of Policy as I am unwilling to deprive them of the satisfaction which I am sure they will feel in originating and supporting a measure which has been approved by all classes.

With respect to the practice of driving slaves to their work by the sound of the whip and to the arbitrary infliction of it by the driver as a stimulus to labour, I am equally disposed to trust to the Court of Policy to originate measures for the cessation of this practice, which I need not state must be repugnant to the feelings of every individual in this country. I am aware that a necessity may exist for retaining the punishment of flogging with respect to males though at the same time it should be subjected to defined regulations and restrictions, but as an immediate measure I cannot too strongly recommend that the whip should no longer be carried into the field and there displayed by the driver as the emblem of his authority or employed as the ready instrument of his displeasure. . . .

and to threaten the peace. At the same time a most secret and confidential circular warned the Governors of 'the perfect unanimity' of the Commons on the matter of the Resolutions and the 'unfortunate' effect of any delay which would cause Parliament 'immediately' and 'with almost equal unanimity' to legislate for the purpose.

28

CIRCULAR DISPATCH FROM LORD BATHURST TO CERTAIN WEST INDIA GOVERNORS

9 July 1823[1]

. . . The suggestions which I am about to make are not to be understood as affording a full development of what His Majesty's Government have in contemplation on this important subject. It is my purpose rather to point out such changes in the law as may be conveniently adopted at present and which will (it is hoped) lay the foundation for a further and more effectual reformation. I am therefore to direct you to lay before the Colonial Legislature of —— the following remarks and propositions; and you will not fail to press upon that body the importance of directing their immediate and most serious attention to them.

It would be superfluous to insist upon the indispensable necessity of religious instruction as the foundation of every beneficial change in the character and future condition of the slaves. So deeply indeed is His Majesty's Government impressed with this truth and with the necessity of maintaining an adequate number of clergymen and teachers throughout the West Indies under episcopal control, that if it shall appear that the revenues of the colonies are insufficient for this purpose they will not hesitate to apply to Parliament for such pecuniary grants as may be necessary for supplying the deficiency. Nor can they doubt that the anxiety which has been manifested by the Legislature and by the public at large for the welfare of the slave population will induce Parliament cheerfully to contribute such funds as may be required for effecting this important object. But this disposition must be met on the part of the Assembly by a legislative provision for the abolition of markets on the Sunday and the substitution of some other time for that purpose, so that the Sabbath may be appropriated to the purposes of rest from labour, and of moral and religious instruction. . . .

Religious instruction is also a necessary preliminary to another important improvement in the condition of the slaves—the admission of their evidence in Courts of Justice. The permanent exclusion of the testimony of slaves must essentially interfere with the provisions adopted for their protection. On the other hand to declare that all slaves shall be qualified to give evidence would be a change in the system of administering justice in the colonies too momentous to be introduced suddenly, it can only be consequent upon the moral and religious improvement of the slave population. It is highly expedient therefore that in furtherance of the Resolutions unanimously adopted

[1] C.O. 29/30, pp. 266–91. Sent to those colonies having legislatures.

by the House of Commons a law should be passed declaring that the evidence of a slave should be received in all, except perhaps certain cases, if upon his appearing in Court to give testimony he shall produce under the hand either of some of the parochial clergymen or of the religious teacher authorized by the master or overseer to instruct him a certificate stating that the proposed witness has been so far instructed in the principles of religion, as in the judgment of the party certifying, adequately to understand the obligation of an oath. . . . The present want of religious teachers in the colonies presents another difficulty, for without their instrumentality it will scarcely be possible to impress the mind of a slave with a due sense of the sacred obligations of matrimony, or even to celebrate the mere ceremonial of marriage with any proper and impressive solemnity. . . .

The next subject to which I must draw your attention is the manumission of slaves, every unnecessary obstacle to which must be removed. Although it appears from the recent returns that taxes have in almost every colony been imposed on manumissions, I am gratified to learn that they have in practice been generally discontinued. . . .

[The interests of young children and the aged and infirm are to be protected upon manumission. The price of manumission shall be assessed by a fair appraisal before permanent commissioners.]

I have next to advert to the subject of the sale of slaves in satisfaction of the debts of their owners. Among the whole range of projected improvements in the colonial system there is perhaps none which on an attentive consideration will be found to present more difficulties than this. . . . It appears to be a general maxim in our colonial jurisprudence, that the whole property of the debtor, whether real or personal, and all his interest in real estates whether legal or equitable, may be taken in execution and sold in satisfaction of any judgment against him. . . . There is therefore a large body of persons holding charges on the slaves throughout the colonies, which they have acquired upon the faith of laws passed by the Assemblies and subsequently approved by the Crown. Now if a law were introduced by which the sale of slaves under legal process in satisfaction of the debts of the proprietor were prohibited absolutely and without qualification the rights thus acquired under Acts of Assembly would be subverted and I am not prepared to recommend a measure trenching so largely on the rights of private property. . . . The land and the slaves being almost universally settled, or mortgaged as one consolidated property, the rights of the reversioner or remainder man in the one case, and of the mortgagee in the other, necessarily prevent the creditor from selling the slaves apart from the land. I am therefore disposed to infer that the great majority of slaves who are brought to sale for payment of their master's debts whether under the old English writ of *venditioni exponas* in Jamaica or under the general executions directed by the Court Acts of the smaller islands, are sold with the

land, and suffer no other alteration from the transaction than that of a change of masters. . . .

[Bathurst therefore concludes that only non-praedial slaves are likely to be sold apart from the estates. He suggests that the Colonial legislature should amend the existing laws in certain particulars by way of limiting the incidence of distraint.]

I have now in addition to those instructions,[1] to direct, that you will cause some effectual law to be submitted to the legislature for preventing any domestic punishment whatever until the day following that on which the offence may have been committed, and even then except in the presence of one free person besides the person under whose authority the punishment may be inflicted. If the punishment should exceed three lashes, it should be provided that a regular entry should be made in a plantation book to be kept for that purpose, first of the nature of the offence, secondly of the time when and the place where it was committed, thirdly of the names of the free persons present at the punishment, and fourthly of the number of lashes received. The accuracy of the entries in this book should be certified quarterly by an oath to be taken by the owner, manager or overseer, before a magistrate. . . .

The last subject to which I propose at present to advert is the necessity of insuring to the slave the enjoyment of whatever property he may be able to acquire. For this purpose *saving banks* should be established under legislative authority, upon the model of those in England, but with this alteration viz. that the depositor should at the time of first becoming a subscriber state to whom in the event of his own death the fund is to devolve. An entry of this declaration being only registered at the bank, should be declared equivalent to a will in the absence of any other.

In conclusion I have most earnestly to impress upon you the necessity of proceeding to carry these improvements into effect not only with all possible dispatch but in the spirit of perfect and cordial co-operation with the efforts of His Majesty's Government. More particularly you will be attentive to have the necessary laws framed with such precaution and foresight, as if possible to provide an effectual security for the faithful observance of them. To this end you will consult with the legal advisers of the Crown on the frame of the necessary bills, and you will from time to time communicate with me upon the progress you make in this work, or upon the difficulties which may obstruct its completion, and if (what I am unwilling to imagine) you should meet with any serious opposition you will lose no time in transmitting to me the necessary communication in order that I may take the earliest opportunity of laying the matter before Parliament and submitting for their consideration such measures as it may be fit to adopt in consequence. . . .

[1] i.e. those of 28 May 1823 against female flogging and use of the driving whip.

29

LORD BATHURST TO CERTAIN WEST INDIA GOVERNORS, 9 July 1823[1]

[He suggests the experimental introduction of task work and wages in the interest of master and slave.]

. . . .There is another point to which I must also particularly call your attention which is a general enactment that all female children born after a certain time shall be free with the following qualifications. The female child so born should be apprenticed to the master for a certain number of years after she had attained a certain age as a remuneration to the master for the expense incurred by him in bringing her up: but the freedom secured for her would necessarily secure for her children the same advantage whether those children were by a free or slave father or whether indeed they were of legitimate or illegitimate birth. You will at once perceive that such an arrangement could in no degree affect the existing slave population, but it would necessarily accomplish the ultimate extinction of slavery progressively and almost imperceptibly at some definite and distant period, during which time the measures now actually introduced cannot fail to effect such a progressive change in the general character and habits of the slave population that when this distant period shall arrive the transition from slavery to freedom will be finally accomplished without revulsion or danger. . . .

30

JAMAICA: ADDRESS AND RESOLUTIONS OF THE ASSEMBLY, 11 December 1823[2]

May it please your Grace,

We are ordered by the House to wait on your Grace to acquaint you that in compliance with their answer to the speech your Grace was pleased to make at the opening of the present session, they have proceeded to a deliberate and careful revision of the Consolidated Slave Law, and find it as complete in all its enactments as the nature of circumstances will admit, to render the slave population as happy and comfortable in every respect as the labouring class of any part of the world. The House most solemnly assure your Grace, that they will at all times be ready (if left to themselves) to watch and take advantage

[1] C.O. 29/30, pp. 260–1. Private and confidential. A supplementary dispatch sent to the Governors of colonies having legislatures.

[2] *Parl. Papers*, 1824, vol. xxiv, pp. 452–3. Enclosed in Manchester to Bathurst, 23 December 1823, together with a Petition to the King against the acceptance of false representations on the treatment of slaves and against the threats of parliamentary legislation.

of every opportunity of promoting the religious and moral improvement of the slaves, and to make such meliorating enactments as may be consistent with their happiness and the general safety of the colony; that under the critical circumstances in which the colony is now placed by reason of the late proceedings in the British Parliament, the House think the present moment peculiarly unfavourable for discussions which may have a tendency to unsettle the minds of the negro population, which the House have the greatest reason to believe is at present perfectly quiet and contented. . . .

Resolved, *nem. con.*—That this House cannot contemplate without sensations of astonishment and the most serious apprehension, the measures which have been adopted by the Commons House of Parliament in their unanimous vote of the 15th May last; as if the machinations of a powerful and interested party were not sufficiently active for the work of destruction, the sanction of ministerial authority has been made subservient to their views, and a decree has gone forth whereby the inhabitants of this once valuable colony (hitherto esteemed the brightest jewel in the British Crown) are destined to be offered a propitiatory sacrifice at the altar of fanaticism. . . .

Resolved, *nem. con.*—That this House, impressed with a due sense of their own dignity, and the integrity of the colonial character, set at nought the malicious and unfounded aspersions which have been cast upon the inhabitants of Jamaica. Proud of their attachment to His Majesty, His family and Government, devoted to the interest of those they represent, and alive to the impulse of humanity, the House need no Pharisaical dictator to prompt them to the discharge of their duty, but will, if left to their own guidance, steadily pursue the line of conduct which comports with the loyalty of their feelings, their regard to the safety, honour, and welfare of the island, and the peace and happiness of their fellow-subjects and dependants.

31

CAPE COLONY: GOVERNOR LORD CHARLES SOMERSET TO LORD BATHURST, 1 February 1824[1]

My Lord,

I have had the honour to receive your Lordship's Dispatch of the 10th of August last No. 73, and it is with deep regret that I remark your Lordship's displeasure upon my having issued the Proclamation for bettering the condition and treatment of the Slaves in this Colony on the 18th March 1823. . . .

It is now necessary for me to explain to your Lordship the inducements I had to issue the Proclamation previous to submitting it for

[1] C.O. 48/62. Printed in *R.C.C.*, vol. xvii (1903), pp. 42–44.

your Lordship's sanction. I had not learnt in the Month of February (when I was framing this Proclamation) that new laws respecting the slaves were likely to be enacted in the Month of June following, and from enquiries I had made of persons, competent to give me the information, I found that every circumstance relating to slavery in the West Indies was so completely at variance with the slavery in this colony, that the laws which would suit the one would be totally inapplicable to the other, and the further I dived into the customs, habits and employments of the slaves here, the more I found that all regulations which it would be wise to make, must depend upon local information and experience.

Another consideration acted very powerfully in my mind. Slaves are the only property of any value in this colony. Land is of none in comparison, and it will occur to Your Lordship how nicely it was necessary to balance any interference not only with the most valuable property of individuals, but with their feelings and authority. Authority that had grown with their growth, and strengthened with their strength, and which they regarded as a Birthright sanctioned and confirmed by the laws of the Mother Country.[1]

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32

DRAFT OF AN ORDER IN COUNCIL FOR IMPROVING THE CONDITION OF THE SLAVES IN TRINIDAD, March 1824[2]

[1–7. The office of 'Protector and Guardian of Slaves' is, until further order, to continue to be vested in the *Procurador Syndic* at Port-of-Spain, whose powers and duties in that regard are extended and defined. He must not be the owner of or hold any mortgage upon any plantation or slaves in Trinidad. As Protector and Guardian of Slaves he is to be a magistrate, in whom are vested all the powers for the maintenance of public order previously exercised by the Commandants of the several districts or quarters of Trinidad; and the Commandants are to obey and execute the Protector's instructions.]

[1] Bathurst remained dissatisfied with Somerset's excuses and obliged him to adapt the Trinidad Order to Cape conditions. The task of issuing the 19th Ordinance fell to Bourke in June 1826; and, despite opposition, further reforms were required—the Trinidad Order in its entirety including those clauses (e.g. the abolition of the driving whip and the keeping of punishment records) which were inappropriate in a system of domestic slavery and where few slave owners could write. Commissioner Bigge's report (April 1831) on slavery in the Cape is printed in *R.C.C.*, vol. xxxv (1905), pp. 352 ff.

[2] *Parl. Papers*, 1824, vol. xxiv, pp. 589–604. This famous draft Order in Council, incorporating and elaborating the programme of reform already outlined in circular dispatches particularly to the Governors of West India islands with representative institutions, was drawn up at the request of Bathurst by Governor Woodford of Trinidad because of his special knowledge of slave conditions in the Caribbean. Resistance to 'amelioration' on the part of West Indian legislatures was imitated by the Crown Colonies, and a slave rebellion in Demerara led Canning to state in the Commons on 14 March 1824 that the amelioration programme would be introduced only in the Crown Colony of Trinidad. Meanwhile the gross miscarriage of justice

. . . 8. And it is hereby further ordered, that in all actions, suits, and prosecutions, which may at any time hereafter be brought or commenced in any tribunal or court of justice within the said island, wherein any slave may be charged with any offence punishable by death or transportation, or wherein any question may arise as to the right of any alleged slave to freedom, or wherein any person may be charged with the murder of any slave, or with any offence against the person of any slave, or wherein any question may arise respecting the right of any slave to any such property as he or she is hereinafter declared competent to acquire; then and in every such case . . . the protector and guardian of slaves shall, and is hereby required to attend the trial or hearing; and all other the proceedings in every such action, suit, or prosecution, as the protector of such slave, and on his or her behalf, and to act therein in such manner as may be most conducive to the benefit and advantage of any such slave. . . .

[9. In order to provide adequate opportunity for the religious instruction of the slaves, Sunday markets are to be abolished throughout the island.]

10. And it is hereby further ordered, that if any person or persons within the said island shall work or employ any slave at any time between the time of sunset on any Saturday, and sunrise on any Monday, or shall, during that period, procure, induce, or compel any slave to perform or engage in any labour, for the profit or advantage of his or her owner, manager, or employer, the person or persons so offending shall incur and become liable to a fine not exceeding fifty, nor less than five, dollars; provided nevertheless that nothing herein contained shall extend, or be construed to extend, to any work or labour which any slave may perform on Sunday in the necessary attendance upon the person, or in the family of his or her owner or employer; or in the necessary and unavoidable preservation of the cattle or live stock upon any plantation. . . .

[11. It is to be henceforth illegal for anyone to use or carry a whip or similar instrument while superintending the labour of slaves.]

12. And it is further ordered and declared, that it is and shall henceforth be illegal for any persons or person to inflict in any one day upon any male slave for any crime or offence, or upon any ground or for any reason whatsoever, any number of stripes or lashes exceeding twenty-five in the whole, or to inflict upon any such male slave any

in the case of the L.M.S. missionary, John Smith of Demerara, and his death in prison aroused public opinion at home and enabled Wilberforce to wrest the promise from the Government that the reforms would be extended to the other Crown Colonies as well. Repeated exhortation and admonition, however, met with stubborn procrastination. The planters of Demerara and Berbice contested the legality of the clauses in the Trinidad draft which provided for manumission, and it was not till 1829 that the Privy Council gave its decision against them. In February 1830, wearying of persuasion, the Government issued a Consolidated Order in Council (based on this Trinidad Order) for promulgation throughout the British West Indies, the Cape and Mauritius; but they still scrupled to employ parliamentary coercion against the chartered colonies.

punishment or correction by the whipping, scourging, or beating of his person, unless the person of such slave shall, at the time of such punishment or correction, be free from any laceration occasioned by any former whipping, scourging or beating, or to inflict upon any such male slave any punishment or correction by the whipping, scourging, or beating of his person until twenty-four hours at the least shall have elapsed from the time of the commission of the offence for, or in respect of, which any such punishment or correction may be so inflicted; or to inflict upon any such male slave any such punishment or correction as aforesaid, unless one person of free condition shall be present at, and witness the infliction of, such punishment, other than and besides the person by or by the authority of whom the same may be so inflicted. . . .

13. And it is hereby further ordered, that henceforth it shall not be lawful to correct or punish by flogging or whipping, any female slave within the island of Trinidad, for any offence committed or alleged to be committed by any such slave; and if any person or persons within the said island shall flog, whip, or correct any female slave, with any whip, cat, stick, or other such like instrument, the person or persons so offending, and each and every person who shall, or may direct, authorize, instigate, procure, or be aiding, assisting, or abetting in any such correction or punishment as aforesaid, of any such female slave, shall be, and be deemed adjudged, and taken to be guilty of a misdemeanour, and being thereof convicted, shall suffer such punishment as is hereinafter provided. And whereas it is necessary that effectual means should be adopted for punishing such offences, as may hereafter be committed by female slaves, within the said island. Be it therefore, and it is hereby ordered, that any female slave who shall or may commit any offence within the said island, which by the laws in force there, was heretofore punished by flogging, shall for such her offence be subject and liable to imprisonment, or to be confined in the stocks, or to such other punishment or correction, as may be necessary for the effectual suppression of such offences, and as may be specially sanctioned in and by any proclamation to be hereafter issued by the authority and in the name of His Majesty, in the said island. And the Governor or Acting Governor of the said island, shall, and is hereby authorized to make, and ordain such rules and regulations as may be necessary for preventing any excess in such punishments, or any abuse in the mode of inflicting the same. . . .

[14–20. A Record Book is to be kept by the owner or manager on every plantation, in which full particulars are to be entered of all punishments inflicted with the reasons therefor. Failure to record a punishment within two days of its infliction is to render the defaulter liable to a fine not exceeding £100 and not less than £5 sterling. The owner or manager of every plantation is to present himself on each quarter-day before the district commandant with an exact transcript of all entries made in the plantation Record Book during the preceding quarter.]

21. And it is hereby ordered, that upon the prosecution of any

person being the owner, proprietor, or manager of any plantation, for inflicting or causing or procuring to be inflicted on any slave or slaves, any punishment hereby declared illegal, if the slave so alleged to have been illegally punished, shall be produced in open court, and if the marks or traces of recent flogging or laceration shall appear on the person of such slave, and if such slave shall in open court declare such traces to be the consequences of any such unlawful punishment or correction, and being duly examined by the said court shall make a particular, consistent, and probable statement of all the circumstances attendant on such unlawful punishment, then and in every such case, although such slave should not be a competent witness within the provisions of this present order, the owner, proprietor, manager or other person, having the charge of such slave, shall be bound to prove, either that the punishment, of which the marks or traces may be so apparent, was not inflicted by him or by his procurement or with his knowledge or consent, or that such punishment was a lawful punishment, within the meaning of this order, and was inflicted in the presence of one such witness of free condition as is required by this present order, and in default of such proof such owner, proprietor, manager or other person as aforesaid, shall be convicted, and adjudged to be guilty of the offence imputed to him; and it is further ordered that every such prosecution as aforesaid, shall be conducted by the protector and guardian of slaves, and that it shall not be lawful for him to discontinue any such prosecution except by virtue of an order in writing, to be for that purpose issued under his hand and seal by the Governor or Acting Governor for the time being of the said island.

22. And it is further ordered, that any persons being in a state of slavery who may be desirous to intermarry, shall, at their election, apply either to the protector and guardian of slaves, or to the commandant of the quarter in which the woman may reside, for a marriage licence, and as an authority to him to grant the same, shall produce the consent, in writing, of their owner or owners, manager or managers, to the celebration thereof; but in case the owner or manager of both, or either of the said slaves, shall refuse to consent to any such marriage, or to give such written permission for the celebration thereof as aforesaid, then and in every such case the said protector and guardian of slaves or commandant, as the case may be, shall thereupon issue a summons, under his hand and seal, requiring the owner or manager of such slaves, or the persons or person under whose direction such slaves may be, to appear before him. . . . And if such owner or manager, or other person as aforesaid, being duly cited, shall fail to appear before the said protector of slaves, or commandant, or appearing, shall fail to lay before him good and sufficient proof that such proposed marriage would be injurious to the well being of the said slaves, then and in every such case the said

protector and guardian of slaves, or commandant shall, without fee or reward, issue a licence under his hand and seal, thereby authorizing any clergyman of the established church of England and Ireland, or any minister of the kirk of Scotland, or any priest or curate professing the Roman Catholic religion, or any public teacher of religion within the said island, carrying on there no other profession, business, or occupation of profit, to solemnize the marriage of the said slaves. . . .

23. And it is further ordered, that it shall not be lawful in the execution of any judgment, sentence, decree, or order of any tribunal, of any court of justice within the said island, to seize or sell in satisfaction thereof any slave having a husband or wife, or a child under the age of sixteen years, or a reputed husband or wife, or child under the age aforesaid, who may be the property of the same persons or person, unless such husband, and wife, and child, or reputed husband, wife, or child, shall be sold together, and in one and the same lot, and to the same person or persons: and if in the execution of any such judgment, sentence, decree, or order, any slave or slaves shall be sold separate or apart from any such husband, or wife, or child, or reputed husband, or wife, or child as aforesaid, then and in every such case, such sale and execution shall be, and the same is hereby declared to be, absolutely null in the law, to all intents and purposes whatsoever.

24. And whereas, by the usage of the said island of Trinidad, persons in a state of slavery have hitherto been reputed competent in the law, and have in fact been permitted to acquire, hold and enjoy property free from the control or interference of their owners. And it is expedient that the said laudable custom should be recognized and established by law, and that provision should be made for enabling such slaves to invest such their property on good security. Be it therefore, and it is hereby ordered and declared, that no person in the island of Trinidad being in a state of slavery shall be, or be deemed or taken to be, by reason or on account of such his condition, incompetent to purchase, acquire, possess, hold, or enjoy, alienate or dispose of property; but every such slave shall and is hereby declared to be competent to purchase, acquire, possess, hold, enjoy, alienate, and dispose of lands situate in the said island, or money, cattle, implements or utensils of husbandry or household furniture, or other effects of such or the like nature, of what value or amount soever, and to bring, maintain, prosecute and defend any suit or action in any court of justice, for or in respect of any such property, as fully and amply to all intents and purposes, as if he or she were of free condition.

25. And it is hereby further ordered, that Savings Banks shall be established within the said island, for the better preserving the property of any such slaves, and that interest, at and after the rate of

five pounds per centum per annum, shall be allowed upon the amount of every sum of money which may be deposited in any such savings banks, which interest shall be a charge upon the general revenues of the said island. . . .

29. And it is hereby further ordered that in case any slave within the said island shall be desirous to purchase the freedom of himself or of his or her wife, or husband, or child, or brother, or sister, or reputed wife, or husband, or child, or brother, or sister, it shall and may be lawful to and for any such slave so to purchase the freedom of himself, or of any such other person as aforesaid; and if the owner or proprietor of any such slave shall be unwilling to effect his or her manumission, or shall, by reason of any mortgage, settlement, lease, or other charge upon, or interest in such slave being vested in any other person or persons, be unable to execute a valid and effectual manumission of any such slave, or if the owner or proprietor, or any other person having an interest in any such slave, shall be a minor, or a married woman, or idiot, or lunatic, or if the real and true owner of any such slave shall be absent from the said island, or shall not be known, or if any suit or action shall be depending in any court of justice in the said island, wherein the title to the said slave, or the right to his services shall or may be in controversy, or if the owner of any such slave shall demand as the price of his or her freedom a greater sum of money than may be the fair and just value thereof, then, and in each and every of the cases aforesaid, the chief judge of the said island, on application to him for that purpose made by the protector and guardian of slaves, shall issue a summons under his hand and seal, requiring the owner or manager of such slave, or the persons or person under whose direction such slave may be, to appear before him. . . .

[30–33. The chief judge in the island shall forthwith consider the case, and if there is disagreement between the Protector of Slaves and the owner or manager respecting the monetary value of the slave seeking manumission, or if other circumstances (e.g. the owner being a minor or a married woman) require an arbitral award, then the judge shall order the Protector of Slaves and the owner or manager respectively to nominate an appraiser, and he himself shall appoint an umpire. If these three fail to produce a joint valuation of the slave within seven days, the judge shall accept the valuation of the umpire as binding.

The Protector of Slaves on being satisfied of the competency of the owner to effect manumission shall issue a deed to that effect.]

34. . . . If it shall appear to the said protector and guardian of slaves, or to such commandant, as the case may be, that the slave about to be so gratuitously manumitted, is under the age of six years, or above the age of fifty years, or is labouring under any habitual disease or infirmity of mind or body, the owner or other person about to effect such manumission, shall, at the time of the execution of the deed of manumission, execute and deliver under his hand and seal a bond to His Majesty in the penal sum of two hundred pounds, with a condition thereunder written, for the defeazance thereof, if the said slave

shall be properly fed, clothed, and maintained until the age of fourteen years in the case of infants, or during the term of his or her natural life, in the case of adults of the age of fifty years, or labouring under any such sickness, disease, or infirmity as aforesaid; and no such manumission shall be valid and effectual in the law, or shall be received for enrolment at the office of registry, until such bond as aforesaid be duly executed and registered and deposited at the said office. . . .

36. And it is further ordered, that no person shall henceforth be rejected as a witness, or considered as incompetent to give evidence in any court of civil or criminal justice in the said island, by reason of his or her being in a state of slavery. . . .

41. And it is hereby further ordered, that any person who may be convicted of any act hereby declared to be misdemeanour, shall, if of free condition, be and become liable to a fine not exceeding five hundred pounds, and not less than fifty pounds sterling English money, or to imprisonment for any time not exceeding six months, nor less than one month, or both to fine and imprisonment at the discretion of the Court, by which any such person may be convicted; and in case any person shall be so convicted of any cruelty to any slave, the said Court shall, and is hereby authorized, at their discretion, to declare the right and interest of the person so convicted in and to any such slave to be absolutely forfeited to His Majesty; and all such offences as aforesaid shall be heard, tried, and inquired of by and before the Court for criminal prosecutions in the said island, and all such pecuniary fines as aforesaid, and all other pecuniary fines imposed by this order, shall be recovered in the said Court, and shall be paid and payable in equal moieties, one half to His Majesty, and the remaining half to any person or persons who may commence any suit or prosecution for the same.

42. And be it further ordered that if any person shall be twice convicted, before any tribunal in the said island, of inflicting upon any slave any cruel or unlawful punishment, the person so convicted shall, in addition to the penalties hereinbefore mentioned, be declared by the Court, before which such second conviction may take place, absolutely incapable in the law to be the owner or proprietor, or to act as the manager, overseer, or superintendent of any slaves or slave within the said island; and all and every the slaves or slave, of which, at the time of such second conviction, any such person may be the owner or proprietor, shall thenceforth become, and be absolutely forfeited to, and vested in His Majesty, His heirs, and successors. . . .

33

WILLIAM NAISH: REASONS FOR USING EAST INDIA SUGAR, 1828[1]

. . . The bounties and protections which the people of England pay to the colonies have alone supported their cruel and destructive system, which must have fallen, if left to itself. These bounties and protections in favour of West India sugar may be estimated at £1,700,000 annually; and it is this large sum paid by the people of this country to the growers of sugar, over and above what that sugar would otherwise cost, which does in fact chiefly maintain the wretched system of colonial bondage. It is calculated that there are in the West Indies about 1,800 sugar plantations, and amongst the proprietors of these, the £1,700,000 is of course divided, making on an average from £900 to £1,000 a year to each slaveholding sugar-planter. The cost of keeping the West Indies, added to the effect of the bounties and protecting duties, imposes on this country a burden of £3,300,000 annually. Lord Sheffield affirms, that the expense of defending the sugar islands by sea alone, during the American War, cost Great Britain more than the fee-simple of those islands is worth.

Whilst we continue these means of support, thus encouraging and rewarding the perpetuation and aggravation of slavery, we set ourselves in direct opposition to the beneficent designs of the Almighty towards these His oppressed creatures. Few circumstances could tend more directly to improve the moral and social state of the West Indies, than the residence of the planters and their families on their own estates. But bounties and protections enable the planters to pay for the waste of property and life occasioned by their own absence and neglect, and by the substituting hired agents. Remove these bounties and protections, and our planters would be compelled like other classes of men to attend to their own concerns.

Let us, individually, bring this great question closely home to our own bosoms. If we purchase the commodity, we participate in the crime. The laws of our country may hold the sugar-cane to our lips, steeped in the blood of our fellow-creatures; but they cannot compel us to accept the loathsome potion. Let us not think the crime rests alone with those who conduct the traffic, or the legislature by which it is protected. The slave-dealer, the slave-holder, and the slave-driver are the agents of the consumer, and may be considered as employed and hired by him to procure the commodity. By holding out the temptation, he is the original cause, the first mover in the horrid

[1] W. Naish, *Reasons for using East India Sugar*, Lond. 1828, published for the Peckham Ladies' Anti-Slavery Society. *Naish* wrote several popular pamphlets in the 1820's, including *A Short History of the Poor Black Slaves . . . intended to make Little Children in England pity them*, Lond. 1825.

process. Nor are we by any means warranted to consider our individual share in producing these evils in a trivial point of view. A family that uses five pounds of sugar per week, with the same proportion of rum, will by the abstaining from the consumption of West India produce for 21 months, prevent the slavery or murder of ONE fellow-creature; eight such families in 19½ years will prevent the slavery or murder of ONE HUNDRED.

It has been calculated, that if one tenth of the inhabitants of this country abstained from the use of West India sugar, and used East India, their influence in discouraging slave-labour, and encouraging free-labour, would be sufficient to abolish slavery in the West Indies.

May every man, before he indulges his appetite with the blood-bought luxury, reflect upon the price it cost. Not eightpence, or tenpence, or twelvepence, or fourteenpence the pound only; but groans, and wounds, and death. As he sweetens his tea, let him reflect on the bitterness at the bottom of the cup. Let him bring the subject home to his heart, and say, as he truly may, this lump cost the poor slave a groan,—and this a bloody stroke with the cart-whip;—and this, perhaps, worn down by fatigue and wretchedness and despair, he sunk under his misery and died! And then let him swallow his beverage with what appetite he may. . . .

34

MAURITIUS: MEMORIAL SUBMITTED BY THE INHABITANTS TO GOVERNOR SIR CHARLES COLVILLE, 2 March 1829[1]

[Quartier des Plains Wilhems.]

. . . Lorsque les colons de St. Domingue entendaient parler de la libéralité avec laquelle les esclaves de l'île de France étaient traités, ils disaient que cette colonie était d'un mauvais exemple pour les autres, et qu'elle courait à sa perte. St. Domingue a succombé victime de ses préjugés, et l'île de France a survécu aux décrets homicides de la convention. Aussi dans cette même colonie, on peut entendre sans effroi défendre les droits de l'humanité, et proposer toutes les mesures qui tendront à améliorer le sort des esclaves, sans néanmoins porter atteinte au droit de propriété du maître.

Lorsque les colons ont connu l'ordre en conseil, qui, fait pour l'île de la Trinité, devait ensuite être appliqué aux autres colonies, leur

[1] *Parl. Papers*, 1830 (676), vol. xxi, pp. 586–7. One of eleven protests against an amelioration Ordinance of 9 February 1829 (No. 43). *Sir Charles Colville*, another Peninsular War veteran, succeeded Sir Lowry Cole as Governor of Mauritius in 1828 and was replaced by Sir William Nicolay in 1832 after his inept conduct of policy at the time of the reception of the revised Order in Council of November 1831 and of the boycott of John Jeremie.

premier mouvement a été de le méditer, de voir quelles étaient les dispositions qui pouvaient être d'une exécution immédiate, celles que l'on pouvait adopter sans danger, celles qui avaient besoin de préparations, celles enfin qui seraient impraticables; ils ont consigné leurs respectueuses observations, sans amertume, sans affecter plus d'alarmes qu'ils n'en devaient concevoir, dans un mémoire présenté au Gouvernement; ils exprimaient surtout cette idée si simple, si naturelle, qu'ils n'ont cessé de reproduire depuis, et qu'ils répètent encore à votre Excellence: '*Que la loi, enlevant au maître une partie de ses pouvoirs, lui doit rendre en sécurité ce qu'il perd en autorité.*' Ils ont exprimé le vœu si juste et si sage, que le Gouvernement donnât plus de force, d'étendue et d'activité *à la police générale*, alors que celle particulière des ateliers allait, pour ainsi dire, se trouver détruite. Ces vœux n'ont pas été écoutés, et plus que jamais la police a montré de l'inertie ou de la malveillance.

Lorsque, dans le mois de Décembre dernier, le bruit se répandit que l'ordre en conseil allait être publié et mis en vigueur, sans modifications et sans les préparations indispensables que commandait l'état du pays, les habitants furent justement alarmés; ils ne pouvaient pas penser qu'après avoir été réunis par votre Excellence elle-même pour lui soumettre leurs vues sur l'application de la loi projetée, après lui avoir remis de nouvelles observations, fruit de leur expérience, après l'avoir suppliée d'ajourner la publication de la loi jusqu'à ce qu'ils aient pu faire entendre leurs voix au Conseil Privé de Sa Majesté, votre Excellence se fût décidée à publier la loi pour toute réponse à leurs demandes.

Cependant, votre Excellence a bien voulu dans cette dernière circonstance donner l'assurance, à une députation d'habitants notables, que la publication de la loi serait retardée; et que d'ailleurs, quand elle paraîtrait, ce serait avec des modifications telles qu'on n'aurait aucune inquiétude à en concevoir. Le bruit se répandit aussi que le Conseil s'occupait en même temps de réorganiser un autre régime municipal, d'une loi pénale répressive des délits d'insubordination des esclaves, et de l'abus si dangereux et si fréquent de leurs plaintes calomnieuses, jusqu'à présent encouragées par l'impunité. Rien de cela n'a paru; la loi a été publiée, on pourrait le dire, sans modifications, et l'on y remarque certains changements qui la rendent plus dangereuse pour la colonie. Quand on la vit paraître, chacun chercha les moyens de l'exécuter, malgré les difficultés insurmontables qu'elle présente: on était encore dans cet état d'étonnement et d'anxiété que l'on éprouve d'un acte dont on ne peut prévoir encore les graves conséquences, mais qui pourraient en avoir de fatales en définitive.

On attendait que quelque chose serait publiée pour apprendre aux noirs, dans l'état de fermentation où sont leurs esprits, qu'ils ne doivent pas moins de soumission, de respect et d'obéissance à leurs maîtres, que

par le passé; on attendait cette loi sur le régime municipal; des réglements sévères sur le vagabondage; enfin des mesures qui feraient voir aux colons que le Gouvernement s'occupait aussi de leur sécurité: mais au lieu de cette compensation si juste et si désirée, on apprit tout à coup que les noirs devaient être réunis chez commissaires civils, y entendre certains discours, et y recevoir on ne sait quelles instructions sur la manière de se conduire vis-à-vis de leurs maîtres, et notamment sur ce qu'ils avaient à faire pour les dénoncer ou les accuser. Cette nouvelle était de nature à causer les plus vives inquiétudes; mais lorsque parut l'ordre du jour de votre Excellence, daté du 13 Février, l'alarme devint générale, et jamais elle ne fut mieux fondée.

Dans cet état, les colons privés des justes compensations qu'ils devaient attendre, portant leurs regards sur le passé, n'y voyant pas ce que leur soumission leur a valu jusqu'à présent, voyant au contraire leurs observations rejetées entièrement, humiliés de n'être jamais appelés dans les conseils du Gouvernement, de n'être jamais consultés sur des lois d'où dépendent leur fortune et leur existence, de voir les charges, les taxes s'accroître de jour en jour et passer toute mesure, de voir le peu de lois municipales qu'ils avaient autrefois entièrement méconnues, toutes leurs garanties détruites, les campagnes sans magistrats, sans force armée, les habitants de Maurice ne peuvent étouffer le cri de désespoir dont leur cœur est oppressé; et ils ont encore la douleur de protester devant votre Excellence de l'impuissance dans laquelle ils sont d'exécuter toutes les dispositions de la Proclamation No. 43. Ce serait peu que leur fortune fût compromise; il y va aujourd'hui de leur existence et de celle de leur famille.

Les habitants soussignés ont l'honneur d'être avec respect,

De votre Excellence, &c. &c. &c. [106 signatures.]

35

MAURITIUS: JAMES STEPHEN TO SIR GEORGE MURRAY, 3 May 1830[1]

SIR,

In obedience to your commands, signified to me by Mr. Twiss, I have perused and considered several Ordinances passed by the Governor in Council of Mauritius in the months of April, May, September, October, and November 1829.

I enclose a list of the titles of these Ordinances, with their numbers.

The Ordinance No. 51[2] regulates the weight of the chains and

[1] C.O. 323/47, ff. 211–13.

[2] This Ordinance repealed that of Governor Cole in December 1826 which did not forbid fetters and chains but attempted to regulate their use. Murray had been under the impression that the 1827 draft of the Trinidad Order in Council which Huskisson had sent back for revision had superseded Cole's Ordinance.

collars which the owners of slaves may compel them to carry as a punishment. I apprehend that His Majesty's Government have already expressed the most unequivocal disapprobation of all punishments of this nature. If any argument against them were wanting, the instruments of torture, for they are nothing less, which the Commissioners deposited in this office as specimens of the chains and fetters in use in the Colony, would be conclusive on the subject. It is indeed singular that so late as the month of September 1829, the Governor and Council of Mauritius should authorize the chaining together of women and boys of the age of fifteen, and the chaining boys, apart from each other, whatever may be their age. The weight of the chains is indeed regulated, though *the Protector* is authorized to augment it. There is no attempt to determine the form of these instruments, except that the collar may not have *three* branches. But two branches are amply sufficient to render the wearer miserable in the extreme. No provision is made respecting the length of time for which these instruments are to be borne, nor respecting the crimes for which they are to be put on.

It would be a waste of time to discuss the merits of such a law as this. It appears to me to demonstrate the unfitness of the Governor and his Council to legislate at all on any subject connected with the condition of the slave population. I would submit to you whether this Act should not be disallowed by His Majesty in Council, and whether the same should not contain an absolute prohibition of the use of chains, collars and fetters in all cases, except for the security in gaol of prisoners who cannot be secured otherwise. . . .

The Ordinance numbered 53, for the amendment of the Slave Law of the Colony, has been superseded by the recent order of His Majesty in Council. . . .[1]

36

MAURITIUS: LORD GODERICH TO GOVERNOR SIR CHARLES COLVILLE, 28 February 1831[2]

[Ordinance No. 51 respecting the use of chains and fetters is disallowed.]

. . . My predecessor in office, in his despatch of the 8th May 1829, conveyed to you in the strongest terms the expression of His Majesty's

[1] Murray's consolidated Order in Council of 2 February 1830. Mauritius alone among the Crown colonies opposed this Order. Stephen's recommendations were adopted and his comments incorporated in the dispatch sent by Murray's successor to Colville (see below, No. 36) notifying him of a disallowance of Ordinance 51. On 2 November 1831 a revised Order in Council was promulgated and sent by Goderich to the Crown colonies three days later. Stephen's memorandum on which Goderich's circular (5 November) was based is printed in K. N. Bell and W. P. Morrell, *Select Documents . . .*, Oxf. 1928, pp. 372–82.

[2] *Parl. Papers*, 1830–1 (230), vol. xvi, pp. 127–8.

dissatisfaction at the enactment of the Ordinance of December 1826 on the same subject, and stated that His Majesty in Council had abstained from introducing measures for the total and immediate prohibition of the use of chains, collars, and similar instruments of punishment, by his own authority, in the full persuasion that the Council of Government of Mauritius would cordially co-operate with you in passing the necessary Ordinance for that purpose. Sir George Murray added that His Majesty would not interpose, unless the disappointment of this reasonable expectation should render such an exertion of his authority necessary.

After such an intimation, it was scarcely to be expected that a second Ordinance should be transmitted for His Majesty's approbation, which authorizes the chaining together of women and boys of the age of 15, and the chaining boys apart from each other, whatever may be their age. . . .

[An Order in Council of 23 February 1831 prohibiting chains, &c., is enclosed.]

It is not without serious concern that I address this communication to you. His Majesty's Government would have been happy to have been spared the necessity of any further interference with the relations of master and slave in Mauritius at the present moment; but the paramount considerations of justice and sound policy which have dictated this Order in Council, have necessarily silenced all minor objections.

I cannot quit this subject without impressing upon you the indispensable obligation of withholding in future the sanction of your authority from measures directly opposed to those principles by which His Majesty's Councils have been invariably governed. By assenting to laws which His Majesty could not without manifest inconsistency sanction, the Governor of Mauritius cannot fail to impose on His Majesty an office the most invidious and irksome. It were far better to encounter at once whatever obloquy or discontent you might incur by a frank opposition to any such measures, to subject yourself to the responsibility of adopting, and His Majesty to the painful duty of disallowing, them. . . .

37

CIRCULAR DISPATCH FROM LORD GODERICH TO CERTAIN WEST INDIA GOVERNORS

10 December 1831[1]

SIR,

I have the honour to enclose to you herewith, for your own information and for that of the legislative bodies of the colony under your

[1] *Parl. Papers*, 1831–2 (279), vol. xlvi, pp. 3–6; i.e. to colonies having legislatures.

government, a copy of an amended Order made by His Majesty in Council on the 2d ultimo, for improving the condition of the slaves in British Guiana, Trinidad, St. Lucia, Mauritius and the Cape of Good Hope. . . . And it is my anxious desire not only that the intentions of His Majesty's Government should be made known to the legislative bodies at the earliest possible moment, but that our motives should be fully explained to them. I am most desirous to satisfy them, if not that our measures are, as we consider them, necessary for the well-being of the slaves, at least that they are dictated by a conscientious sense of duty. I am anxious to convey to them an adequate impression of the necessity which exists for us to take at length some effective step towards the redemption of the pledges given with the concurrence of the West India body in 1823, and of the solicitude which we have felt to consult the interests of the planters simultaneously with those of the slaves, and to accomplish, by such means as should be the least unacceptable to the owners of West Indian property, an object which it has become impossible to postpone without compromising the dignity and consistency of the Imperial Legislature, and occasioning danger to all parties concerned.

When I look back in the records of this Department to the many earnest appeals upon this subject, which have been addressed since the year 1823 to the reason and discretion of the colonial legislatures, it may well seem superfluous to observe, that nothing has been further from the wish of those who have successively administered the affairs of this country since that period, than to have recourse to any measures of a coercive character. The Circular Despatches which were written from year to year, repeating the expression of hopes which had been in no instance fulfilled, and of confidence which had not been justified, evince with what extreme reluctance the Ministers of the Crown have been compelled to relinquish the expectations which were originally entertained, that effectual measures for the improvement of the condition of the slaves would be at length spontaneously adopted by the colonial legislatures. The despatches which have been written to point out in detail the defects of such laws as were enacted in alleged fulfilment of the wishes of His Majesty's Government, or in partial compliance with them, bear further testimony to the patient and persevering endeavours which have been made by His Majesty's Government to impress upon the several Councils and Assemblies the necessity which existed for satisfying the feelings entertained in this country in favour of the slaves, and the inadequacy of their legislation to effect that purpose. If His Majesty's present advisers have resolved to pursue no further this course of warning and entreaty, it is not that they are in any degree less anxious to conciliate the goodwill, whilst they consult the real interests, of the colonists, but only because they feel that the language of admonition has been exhausted, and that any further attempt to produce an impression upon the

legislatures by the same means alone, could add nothing to the respect of those bodies for the authority of the Crown, whilst it would be in vain to expect that it could contribute anything to the accomplishment of the object in view.

His Majesty's Government had thus before them the alternative either of proposing some measures of a stronger character than mere injunction, or of desisting altogether from the promotion of an object to which Parliament is not less justly than solemnly pledged, and the postponement of which is tending more and more every day to precipitate a powerful party in this country in the opposite extreme, and to produce dangers which, however ill they may be understood in a distant quarter of the world, no one who is conversant with the influence of public opinion in this country, and the direction of it upon the subject of slavery, could fail to foresee.

At the same time that this alternative presented itself, the increasing commercial distress of the West Indian interest could not but attract the most anxious and painful attention of His Majesty's Government. Deeply as they have regretted the opposition of the colonies to their measures in favour of the slaves, neither that opposition, nor anything that was ill-judged and intemperate in the manner of it, has prevented His Majesty's Government from entertaining the strongest feelings of sympathy and compassion for the distress under which all persons connected with West Indian property are indiscriminately suffering. His Majesty's Government were thus scarcely more anxious to secure the adoption of their measures for the protection of the slaves, than to find means, not incompatible with that object, of relieving the planters from some portion of their commercial difficulties. In this view, as well as from its importance to the interests of humanity, it has been peculiarly gratifying to His Majesty's Government to have been enabled to conclude a Convention with France, which promises, more than any other practicable measure, to repress the foreign slave trade; and this, at the same time that it militates against the dreadful atrocities of that traffic, will give some check to the competition of foreign sugar growers, so far as it is promoted by such iniquitous means. A measure of fiscal regulation, so devised as to be productive of real and substantial relief, has appeared to be the only additional method within the power of His Majesty's Government to propose, which would in some degree meet the exigencies of the West Indian commercial interest. But to offer such an advantage to the planters without at the same time taking any security for their acceptance of the measures in behalf of the slaves, would be, if not directly inconsistent with the Parliamentary Resolutions of 1823, at least an abandonment, and even reversal, of the policy of the Executive Government resulting from those Resolutions. . . . The course of authoritative admonition has been pursued for eight years, and has been, as I have already observed, utterly unsuccessful. Advice again

and again tendered to the colonial legislatures, has been but little listened to in any of the colonies; and in some of the most important and considerable, has been more than once rejected, without even the forms of respect. Ceasing therefore to entertain hopes that their admonitions will ever prove efficacious, it might, perhaps, be expected of His Majesty's Government to propose at once to Parliament the second mode of operating upon the legislatures which was contemplated by Mr. Canning. But to use any endeavours to harass the colonies by fiscal regulations in their present circumstances of distress, would indeed be most repugnant to the feelings of His Majesty's Government. They could not at this moment, nor until a less painful experiment should have been tried, reconcile it to those feelings which the sufferings consequent upon commercial adversity must always excite, to propose any measures to which a character of unmixed severity could be attributed. Whilst, however, their feelings of concern for the difficulties of the West Indian proprietors and merchants withhold them from originating any measure in which their interests should not be considered, they are not less powerfully withheld by a sense of their duty to the great cause of slave melioration, and, by a consciousness of the obligations under which the Government of this country has been placed by the Resolutions of Parliament, from propounding any measure of indulgence to the planters in which the interests of the slaves should be lost sight of. To propose a measure of fiscal relief, to take effect before the object of the Parliamentary Resolutions should be secured, would be a manifest dereliction of the only course of policy short of the direct application of power, through which there has ever been a prospect of redeeming the pledges contained in those Resolutions. Such being the position of the question, and such the obligations incumbent upon His Majesty's Government, it only remained for them to combine the two great objects which they had to effect in a single measure, and thus to make the one contingent upon the other.

I have therefore to announce to you the fixed determination of His Majesty's Government to propose to Parliament in the present Session, and so soon as the details of this, in common with their other financial operations for the year 1832, can be arranged, a measure of substantial relief to the West Indian interest; and that this measure will be so framed as to take effect upon the produce of the Crown colonies as a matter of course, and upon that of those only of the other colonies, in which the provisions, in their precise terms and in their entire extent, of His Majesty's Order in Council of the 2d ultimo, for improving the condition of the slaves in British Guiana, Trinidad, Saint Lucia, Mauritius and the Cape of Good Hope, shall have acquired in perpetuity the force of law. It cannot be too distinctly explained, that the measure to be submitted to Parliament will be so framed, that the indispensable condition of receiving the consequent benefit will be

the fact of a statute having passed the colonial legislature, simply, and without qualification in terms or limitation of time, declaring the Order in Council to possess the force of law in the colony.

The language here used is by no means needlessly strict. The motives and sentiments of His Majesty's Government would be much mistaken were it to be conceived, that in making the terms of the proposed alternative thus definite and precise, they had been actuated by any spirit of peremptory dictation. The whole efficacy of a law depends upon verbal distinctions and minute accuracies of expression. To leave the choice of the words to any body of men, is to place the substance and essence of the law at their discretion. To do this would be nothing less than to resume and continue the fruitless correspondence of the last eight years upon the terms of Colonial Slave Acts. An interminable controversy would arise between His Majesty's Government and each of the legislative colonies, as to whether the required amendments in the laws relating to slavery had or had not been enacted, and His Majesty's Government would be called upon to discharge the invidious and even impracticable office of determining constructively upon the words of thirteen different Codes; while upon their decision it would depend to which of as many colonies the benefit provided by Parliament should be dispensed, and to which it should be denied. Even if such a revision were possible, the experience of eight years has now placed beyond the reach of all rational doubt the fact which, independently of such experience, might have been anticipated, that laws framed in the colonies, and passed by the colonial Assemblies, for the improvement of the condition of slavery, are deficient in that quality without which all such legislation must be nugatory. The compilation of Acts passed during that period by thirteen different Assemblies (with the exception of a few enactments passed in some of the smaller islands on the subject of slave evidence, and of an Act of Grenada respecting the legal presumption in favour of freedom), does not contain a single statute which carries within itself any reasonable security for the faithful execution of its provisions. . . .

You will lay this despatch and its enclosures before both branches of the legislature in the colony under your government; and I shall await, with feelings of deep and anxious interest, the result of the proposals here made. Should they not meet the views of the legislature, His Majesty's Government will have more than one cause for the most serious concern: they will then have to regret, not only the temporary postponement (for more than temporary it cannot be) of the benefits which are intended for the slaves, but the failure also of their efforts to renew the prosperity or mitigate the distress of the planters; and, above all, they will have to deplore the continuance, on the part of the West Indian colonists, of that insensibility to the influence of public opinion in the mother country, by which they are daily

bringing themselves more and more within the danger of calamities far more grievous than any which can be caused by commercial reverses, and of disasters from which it may be beyond the power of any Government to protect them. . . .

38

JAMAICA: REPORT OF A COMMITTEE OF THE HOUSE OF ASSEMBLY APPOINTED TO INQUIRE INTO THE CAUSE OF, AND INJURY SUSTAINED BY, THE RECENT REBELLION, 1832[1]

. . . Your Committee express it as their opinion, and do report the same to the House, that the causes which have led to the late rebellion among the slaves in this island are as follows:

The primary and most powerful cause arose from an evil excitement created in the minds of our slaves generally, by the unceasing and unconstitutional interference of His Majesty's Ministers with our local legislature, in regard to the passing of laws for their government, with the intemperate expression of the sentiments of the present Ministers, as well as other individuals in the Commons House of Parliament in Great Britain, on the subject of slavery; such discussions, coupled with the false and wicked reports of the Anti-Slavery Society, having been industriously circulated, by the aid of the press, throughout this island as well as the British Empire.

Secondly, from a delusive expectation produced among the whole of the slave population of the machinations of crafty and evil-disposed persons, who, taking advantage of the prevailing excitement, imposed upon their disturbed imaginations a belief that they were to be free after Christmas; and in the event of freedom being withheld from them, they 'must be prepared to fight for it'.

Thirdly, from a mischievous abuse existing in the system adopted by different religious sects in this island, termed Baptists, Wesleyan Methodists and Moravians, by their recognizing gradations of rank among such of our slaves as had become converts to their doctrines, whereby the less ambitious and more peaceable among them were made the dupes of the artful and intelligent who had been selected by the preachers of those particular sects to fill the higher offices in their chapels under the denomination of rulers, elders, leaders and helpers.

And lastly, the public discussions of the free inhabitants here, consequent upon the continued suggestions made by the King's Ministers regarding further measures of amelioration to be introduced into the slave code of this island, and the preaching and teaching of the religious sects called Baptists, Wesleyan Methodists and Moravians (but

[1] *Parl. Papers*, 1831–2 (561), vol. xlvii, pp. 3–4; ordered to be printed by the Commons at the request of the Agent for Jamaica, William Burge, on 28 June.

more particularly the sect termed Baptists), which had the effect of producing in the minds of the slaves a belief that they could not serve both a spiritual and a temporal master; thereby occasioning them to resist the lawful authority of their temporal, under the delusion of rendering themselves more acceptable to a spiritual, master.

Your Committee further report, that the injury sustained by the late rebellion, by the slaves wilfully setting fire to buildings, by grass and cane-fields destroyed, robbery and plunder of every description, damage done to the present and succeeding crops, the loss of labour of slaves, besides those killed in suppressing such rebellion, and executed after trial as incendiaries, rebels and murderers, has been ascertained by means of Commissioners appointed under an Order of the House, and by the detailed returns made to the Committee in conformity with such Order, to amount to the following sums of money: [a total of £1,154,589. 2*s*. 1*d*.]. . . .

39

JAMAICA: LORD GODERICH TO GOVERNOR LORD BELMORE, 1 March 1832[1]

. . . The documents which your Lordship has transmitted ascribe the recent commotions, not merely to the erroneous belief amongst the slaves that some law had set them free, but to the influence of religious instruction, communicated by ignorant teachers, and received by a population unprepared by any previous education, to apprehend the real spirit of Christianity. . . .

I am not disposed to deny that the work of religious instruction may in some instances have been undertaken by men ill qualified for so arduous a task; and I am even ready, for the sake of argument, to adopt the improbable supposition, that the pure truths of Christianity may occasionally have been adulterated by instructions of a seditious nature. Assume all this to be the case, and what is the proper inference? Not assuredly that the slaves be left to their native superstitions and idolatry, but that renewed exertions should be unremittingly made to diffuse amongst them more just apprehensions of religion, and clearer views of those moral obligations, to the enforcement of which all Christian instruction should be subservient. . . .

I am aware that to persevere in the measures announced in my despatch of 10th December at the present moment, may possibly be described as pregnant with imminent danger. I still however think that His Majesty's Government could not desist from urging the

[1] *Parl. Papers*, 1831–2 (285), vol. xlvii, pp. 43–48. *The Earl of Belmore* was Governor of Jamaica from 1829 until 1832 when he was succeeded by the Earl of Mulgrave whose energy, sympathy, and fair-mindedness were in marked contrast to the attitude of his predecessors.

proposed measures of relief, and that the colonial legislature could not reject that proposal without incurring another danger at least as imminent. Throughout this protracted controversy, the voice of dispassionate reason has, unhappily, been seldom heard or heeded, amidst the violent invectives with which the contending parties have mutually assailed each other. It is at once my duty and my earnest desire, to inculcate on all parties a spirit of moderation and mutual forbearance, and to warn them of the inevitable calamities which must follow, if interests so momentous shall continue to be made the sport of angry passions. In considering the situation of the gentlemen with whom the legislative authority in Jamaica resides, I cannot forget the difficulties with which they have to contend, nor employ any other language than that of conciliation and respect. Yet I would wish with the utmost earnestness to impress upon them, that they cannot safely overlook the state of society and of public opinion throughout the civilized world, and especially in this kingdom. Were they resident here, they would need no assurance of mine to convince them, that the views of His Majesty's Government on the subject of negro slavery are in harmony with those of Parliament and of the nation at large, and that during a discussion of nine years' continuance, men of all ranks have been progressively acquiring a more uniform and firm conviction of the soundness of those views. It were a fatal mistake to suppose, that the voice of the country at large on this subject is nothing more than the transient clamour of a small but importunate party; yet it is an error into which, at such a distance, the local legislature may not improbably fall. . . .

His Majesty therefore cannot revoke the instructions which your Lordship will have already received on the subject of negro slavery. If, however, the events which have formed the subject of this despatch should have compelled you to suspend the execution of the orders you have received, you have His permission to continue that suspension until the restoration of general tranquillity; but you will take the earliest occasion after internal peace shall have been re-established, for again directing the attention of the Council and the Assembly to the subject. . . .

40

CIRCULAR DISPATCH FROM LORD GODERICH TO CERTAIN WEST INDIA GOVERNORS, 9 June 1832[1]

The Committee of the House of Lords was appointed on the petition of the merchants and others interested in the West Indian property, and has been instructed to investigate the actual condition of the slave population, and the state of the law by which their treatment

[1] *Parl. Papers*, 1831–2 (649), vol. xlvi, pp. 7–8; i.e. those colonies with legislatures.

is regulated: the Committee of the House of Commons, on the other hand, has been appointed in consequence of the numerous petitions which have been presented for the abolition of slavery; and has been directed to consider and report upon the measures which it may be expedient to adopt, for the purpose of effecting the extinction of slavery throughout the British dominions, at the earliest period compatible with the safety of all classes in the colonies, and in conformity with the Resolutions of this House on the 15th May 1823. . . .

It is indeed, in the opinion of His Majesty's Government, deeply to be regretted that the measure which they had proposed for the improvement of the condition of the slaves has not met with the cheerful concurrence of the colonists, since it seems to them that by affording a remedy for the worst of the practical evils of the present system, by holding out a prospect that the slaves might be able gradually to purchase their freedom, the cordial adoption of the Order in Council of the 2nd of November might have been accepted as a settlement of the question. . . .

It will, of course, be your study to impress upon all classes within your Government a just sense of the position in which they are placed, and of the duties which it imposes upon them. To the planters you will explain, that the vote of the House of Commons implies *no* departure from the principles sanctioned by the Resolutions of 1823; that no violent change in the existing form of society is contemplated, but that, on the contrary, the object to which the labours of the Committee will be directed, will be, that which Parliament has always recognized as the end to be aimed at, in all that has been done on this subject, namely, the substitution, as soon as it can be effected without any shock or convulsion, of a system of *free* for one of *forced* labour. To the slaves, on the other hand, you will give the assurance of His Majesty's most earnest solicitude for their welfare; but you will explain to them, that any attempt on their part to wrest by force from their masters advantages to which they have no legal claim, can have no other effect than to draw down upon them the severest punishment, and to postpone the accomplishment of that which is intended for their benefit. . . .

41

EDWARD STANLEY: RESOLUTIONS MOVED IN THE HOUSE OF COMMONS, 14 May 1833[1]

1. That it is the opinion of this Committee that immediate and effectual measures be taken for the entire abolition of slavery through-

[1] *Hansard*, vol. xvii, 1230–1. The ambiguity in the status of apprenticeship came as an anti-climax at the end of a speech in which he had spoken strongly of the failure of the colonial legislatures to ameliorate slavery along the lines

out the colonies under such provisions for regulating the condition of the negroes as may combine their welfare with the interests of the proprietors.

2. That it is expedient that all children born after the passing of any Act or who shall be under the age of six years at the time of passing any Act of Parliament for this purpose, be declared free; subject nevertheless to such temporary restrictions as may be deemed necessary for their support and maintenance.

3. That all persons now slaves be entitled to be registered as apprenticed labourers and to acquire thereby all rights and privileges of freedom; subject to the restriction of labouring, under conditions and for a time to be fixed by Parliament, for their present owners.

4. That, to provide against the risk of loss which proprietors in His Majesty's colonial possessions might sustain by the abolition of slavery, His Majesty be enabled to advance by way of loan to be raised from time to time a sum not exceeding in the whole £15,000,000, to be repaid in such manner and at such a rate of interest as shall be prescribed by Parliament.

5. That His Majesty be enabled to defray any such expense as he may incur in establishing an efficient stipendiary magistracy in the colonies and in aiding the local legislatures in providing for the religious and moral education of the negro population to be emancipated.

B. THE TREATMENT OF ABORIGINES

(*a*) *North American Indians*

1

UPPER CANADA: LIEUT.-GOVERNOR SIR PEREGRINE MAITLAND TO LORD BATHURST

29 November 1821[1]

My Lord, York.

In obedience to the desire expressed in your Lordship's dispatch of the 31st May, I have the honour to submit for your Lordship's consideration the details of the plan which I would propose should be carried into effect for the amelioration of the Indian tribes in the

of the proposed reforms of 1823–4. In the course of the debates on the resolutions and on the Bill (3 & 4 Will. IV, cap. 73) the proposed loan of £15 million became a grant of £20 million, while the period of apprenticeship was reduced from twelve years for praedial slaves to six. The resolutions in a slightly amended form were passed without a division by the Commons on 12 June, and were introduced into the Lords on 25 June by Goderich, now Lord Ripon.

[1] C.O. 42/366. *Sir Peregrine Maitland* had fought throughout the great French Wars until the battle of Waterloo. From 1819 to 1828 he was Lieut.-Governor of Upper Canada, and for four years afterwards was Lieut.-Governor of Nova Scotia. Bathurst does not seem to have made any comment on this dispatch.

neighbourhood of our settlements in this province. By which your Lordship will perceive that so far from any additional expense being incurred by the Government, a considerable diminution may be effected in that now existing, whilst an ample quantity of land will be reserved for the use of the Indians.

In the event of the plan I have the honour to submit meeting with the approbation of His Majesty's Government, I would beg leave to solicit particularly your Lordship's attention to the expediency of the lands in question being advertised for sale and disposed of at home, as I am aware that there is more than one society of persons, besides many individuals, desirous of obtaining tracts in that particular part of the province, and who are now in England.

In the enclosed paper I have taken the liberty to suggest the propriety of the trusteeship for this property being vested in the Society for the Propagation of the Gospel, and in addition I beg leave to state my humble conviction that no persons connected with the Indians should be employed in such a trust. . . .

[Enclosure.]

The Indians within the province of Upper Canada may be considered under two divisions—the Mohawks or Six Nations, and the Mississaguas: the former possess two settlements, one in the Bay of Quinté nearly forty miles west of Kingston consisting of about 25 or 30 families—the other on the Grand River in the London district consisting of nearly five hundred families.

The Mohawks are in some degree civilized and profess themselves of the Church of England. There is a place of worship in each of their settlements and occasional visits are paid them by clergymen of the established church; but visits of this kind are found to have very little effect in ameliorating their manners and preserving among them a proper knowledge of religion. A more steady and vigilant system is necessary to make them truly Christians and gradually to diminish that inclination to a desultory and savage life which still prevails among them. In prosecuting such a plan little perhaps can be expected from the grown-up Indians; its success will therefore chiefly depend upon the influence which it may acquire over the young—and a paramount influence of this kind may be reasonably expected if conciliation and kindness be the leading principles of the system, as the Indians never restrain their children who may be easily attracted to the schools by proper management.

The following plan for the civilization and religious instruction of the Six Nations which proposes a diminution of expense to the Government appears to present a reasonable hope of success.

1st. It is proposed that the reserve appropriated to that portion of the Mohawks which has settled on the Grand River and which is no longer useful as a hunting ground (being surrounded by settlements)

be vested in a Board of trustees (appointed by His Majesty's Government) to be disposed of by sale or lease for the benefit of the Six Nations with these exceptions:—first, that the head of each family shall have a certain parcel of land secured by the King's Patent (under such restrictions as shall be judged necessary) for the uses of himself and dependants—second, that such of the Whites as are found to have an equitable claim, and are so acknowledged by the Six Nations, shall be confirmed in their possessions.

2nd. That in consequence of His Majesty's relinquishing the fee simple of the whole tract which was purchased for the reception of the Six Nations after the conclusion of the Revolutionary War, the expense attending the annual presents shall be defrayed from the proceeds of the land thus relinquished for their benefit.

3rd. That with a view to their religious instruction and civilization there shall be a further application of the proceeds for the maintenance of a Mission including schools of instruction and industry, all under the direction of the missionaries, and residing constantly among the Six Nations.

4th. That the remaining proceeds, which it is presumed will be very considerable especially if the lands be disposed of in England, shall be applied to the uses of the people of the Six Nations. . . .

[In the statistical table which follows it is calculated that out of a total acreage in the old Grand River Reserve of 318,203 acres, 117 chiefs should receive grants of 200 acres (23,400 acres), 400 heads of families should receive grants of 100 acres each (40,000 acres), 12,000 acres should be allotted 'to supposed claims of Whites', and 1,200 acres for a village site. This would leave 241,603 acres remaining for sale, which at $3 per acre would realize a capital of $724,809, and this sum at 6 per cent. interest would produce an annual revenue of $44,488. After deducting $17,000 for presents to the Indians each year and $2,200 for the salaries of the Mission staff there would be an annual balance of $24,868, thus providing about $14 for each Indian man, woman, and child.]

It is proposed that Government shall continue the presents one year after this revenue comes into operation, to defray the expense of building a church, missionary house, school houses of instruction and industry etc.

It is likewise proposed that only ten dollars instead of this whole surplus of fourteen shall be distributed, annually, to each Indian (a part of which may be in money and a part in goods) which will be all in addition to what they receive at present, and that the remainder amounting to 6,800 dollars, be appropriated to the schools of industry where all the boys and girls that are without immediate protection shall be taught, clothed, and fed, and provided with farming utensils, and when they go on their land, with this provision that all the boys and girls shall be admitted as boarders to these schools, fed and clothed etc. on being allowed from their parents their (the children's) share of the presents and annual proceeds of the land. For it is presumed that the expense of a school of industry well regulated would not exceed £5 each for board and lodging etc. because the boys would

be employed at trades or on the farms, and the girls making clothes, taking care of dairies etc. and their food and clothing would be simple. The introduction of spirituous liquors should be particularly guarded against. . . .

[A similar plan is proposed for the Mississaga tribe.]

2

UPPER CANADA: LIEUT.-GOVERNOR SIR JOHN COLBORNE TO R. W. HAY, 3 May 1829[1]

DEAR SIR, York.

Since the receipt of your letter of the 3rd of December, I have collected such information respecting the Indian Department, as now enables me to offer an opinion how far it may be expedient to carry reduction, and what measures should be adopted to diminish gradually the expense incurred in conveying the annual presents to the Indians settled in Upper Canada, and to those who have been accustomed to assemble at Drummond's Island, and Amherstberg, from the territory of the United States.

It appears I think, that a considerable decrease in the expense of the establishment of the Indian Department may be effected in a few years, if the course which has been pursued with the Mossissagas [Missisagas] of the Credit should be observed with the other tribes. You will perceive by the annexed report, from the Revd. Mr. Magrath, that a very extraordinary and beneficial change has taken place at that station.

Under the superintendence of attentive resident agents, civilization may be extended to the whole of the Indians of this Province, and a fund created for their future support by granting leases of their lands, and selling part of them.

We have been involved, for many years, in a system which has occasioned an enormous expense without conferring any benefit on the Indians, or insuring their friendship.[2] A great effort will now, I hope, be made to ameliorate their condition and to place their children under zealous instructors.

No alteration can yet take place with propriety, in the amount of the presents issued to the Indians who resort annually to Amherstberg from the United States, or to those who have been accustomed to visit Drummond's Island; but some expense may be saved by fixing the periods of issue at the former place. . . .

[He recommends a number of staff rearrangements in the Indian Department.]

[1] C.O. 42/388, marked 'Private'. *Sir John Colborne* was Lieut.-Governor of Upper Canada from 1828 to 1836, and remained in Canada as Commander-in-Chief during the governorship of Sir Francis Bond Head.

[2] For earlier criticisms of the Indian Department and the system of annual presents see *Simcoe Papers*, vol. iii, pp. 61–64, 321–4.

These four Superintendents should be actively employed in collecting the Indians in villages,[1] and inducing them to cultivate their lands, and divide them into lots. They should encourage them to send their children to the schools which will be prepared for their reception. They will be able probably to persuade the Chiefs to give their consent, that the sums due to them for the lands sold to Government shall be expended on their houses, and in furnishing them with agricultural implements, cattle etc. They can explain to them the benefit the tribes will receive from their lands being leased, and in certain cases, from their being sold, with the sanction of the Lt. Governor and the usual Council. . . .

It is, however, highly important to let the Indians feel that they are indebted to our Government for the benefits which may be expected to result from establishing schools, and appointing religious teachers, and that all improvements proceed from us. The American Methodists are using great exertions to maintain their influence. They have taken Indian children into the States for the purpose of raising subscriptions, and they have a few days since requested that they may be allowed to import bibles, tracts, and clothing for the Indians on the Rice Lakes. . . .

It will also be expedient to allow a charge of thirty or forty pounds a year at each station for medical attendance. A special Order will be required to authorize the Lt. Governor to consent to the Indian Reserves being disposed of, if in certain cases it should be desirable to alienate them. Several Chiefs have expressed their wish to have schools established, and to bring their tribes together.

The Americans have lately adopted a plan for civilizing the Indians in some parts of the United States; and have formed respectable establishments of missionaries, school masters, farmers, and mechanics. I think we should have similar establishments. The expense must be borne in the first instance by Government, but I have no doubt that we may depend on being able to make the Indians support themselves and all the establishments recommended, at no distant period.

The Methodists have worked hard, and must be encouraged to assist us, but great care must be taken that they do not gain the political influence among the Indians which they possess among the settlers of this Province. . . .

[1] Similar small reserves had been tried with little success in N.S.W. (See *H.R.A.*, Series I, vol. viii, pp. 367–70; vol. ix, pp. 53–54.) Segregation enforced by the militia under martial law was being carried out in Van Diemen's Land with the approval of Murray (see C. Turnbull, *Black War*, Melb. 1948).

(*b*) *Hottentots and Bushmen*

3

CAPE COLONY: WILLIAM STEPHANUS VAN RYNEVELD, A PLAN FOR AMENDING THE INTERIOR POLICE OF THE COLONY, 31 October 1801[1]

. . . The Hottentots already reduced by the peasants to slavery, by the right which the strong will usurp over the weak (a right that such sort of people know very well how to exercise), have often times showed, and recently given convincing proofs, that they are by no means indifferent as to their situation, that they aim at revenge, whenever opportunity may favour their design.

The farmer on the other side perceives very well that the Hottentot is only restrained by awe and a superior power. He is jealous of all such regulations made in favour of the Hottentots, as may tend to increase his means to oppose himself to them,—in short both parties, especially in the remote districts, consider one another in the light of enemies, and in proportion as Government incline to favour the Hottentots and to protect them particularly against oppression, in the same proportion will discontent arise among the farmers, who imagine that the interests of the Hottentot are preferred to their own, and think themselves thereby aggrieved. It will therefore be always a difficult task for Government to regulate and adjust the interest of these contending parties, to cause justice to be done to every one, and good order and tranquillity to be preserved throughout the whole colony. This end can never be obtained so long as the police remains in its present form. Peace may perhaps by an armed force be preserved for a short time, but real tranquillity will never be established by these means; discontents among the farmers and Hottentots will constantly require extraordinary measures, which will not only occasion great expense and trouble, but never effect a lasting peace to the colony.

I therefore deemed it my duty under the present circumstances to turn in my mind some plan for amending the interior police and to consider of measures to be adopted to prevent as much as possible inconveniences for the future.

To this end, two material points appear to me most important:—

1st. The police in general relative to the Hottentots.

2nd. The particular amendment in the interior police itself, as it regards both the peasant and Hottentot.

[1] *R.C.C.*, vol. iv (1899), pp. 89–95: written for Major-General Francis Dundas. *William Stephanus Van Ryneveld*, 'a man of character, talent, and known attachment to the British Government', was His Majesty's Fiscal, charged with the administration of justice. In 1806 he was appointed chief civil magistrate on the British reoccupation of Cape Town.

In respect to the *Hottentots*. These for the most part cannot at present but be servants to the farmers. They neither possess cattle, nor have other means of subsistence, and become dangerous subjects to society when suffered to wander about, without being servants, or having a livelihood,—they skulk in the woods, and, if they can, steal the cattle of the farmers, upon which they live. There are some who have cattle and dwell with their families in huts (*kraalen*), who can very easily remain there unmolested, and ought with all possible care to be protected in that right *coute qu'il coute*.

There exists a third class of Hottentots who belong to the *schools* lately established here by the Missionaries,—these also merit every support, and indeed nothing appears more material than to encourage these institutions for the instructing and civilizing the Hottentots. They thereby obtain a safe asylum against violence from the farmers, and can then have no other inducement than good treatment from the farmers to go and serve them. It will therefore be necessary to direct that no Hottentot is to be suffered to remain within the boundaries of this colony, unless belonging to one or other of the following classes, viz.:

1. The class of Hottentots serving the farmers.
2. To the licensed kraals or huts.
3. To the schools of the Missionaries. . . .

For the rest, no Hottentot, unless belonging to one of the above legally established classes, shall be permitted to remain within the boundaries of this colony; but all wanderers and vagabonds ought immediately to be apprehended and placed either to the public works, or on Robben Island, there to labour for their bread. To which end every Hottentot in service, or belonging to the kraals, must always be provided with a certificate from the Landdrost of the district, and those belonging to the licensed schools with a certificate from one of the Missionaries, countersigned by the Landdrost, without which certificate, if found, they shall be liable to be considered as vagabonds, and taken up accordingly. All which certificates are to be renewed annually, in order to prevent abuses. . . .

[Secondly, in respect of the interior police, he criticizes the Landdrost system on the ground that the chief business of the Landdrost is the organization of the *commandos* which must automatically disqualify them as impartial adjudicators. Van Ryneveld then gives a detailed list of districts, each of which ought to have its own Deputy Landdrost.]

Hottentot as well as farmer would then, from having in their neighbourhood an impartial man as their magistrate, know more their reciprocal duties, and would then less injure each other; if quarrelling, they would see a prompt and easy mode of redress; both would finally have peace in their own minds, and that rest and peace they would naturally attribute to a mild and careful Government, which had thier welfare at heart. . . .

Moreover in order to prevent all possible abuses and to maintain a perfect reliance from all classes of people living under the protection of Government, the afore-mentioned Commission, under the title of ——, should make an annual or biennial circuit from Cape Town through the districts of Stellenbosch, Graaff Reinet, and back again through Zwellendam, in order not only in a political view to examine in general the state of the colony and report thereon, but also in a judicial capacity, as above stated. The utility of such a Commission will be obvious, especially so long as Government persists in the system hitherto adopted to civilize the colony as much as possible, and firmly to establish tranquillity therein. Such a circuit will at all events serve to support those magistrates who faithfully discharge their duty, and to put others on their guard not to commit any injustice or arbitrary acts, and also be the bulwark of safety to everyone obeying the laws, whether slave, Hottentot, or farmer. . . .

4

CAPE COLONY: JACOB ABRAHAM DE MIST, MEMORANDUM ON THE CONDITION OF THE COLONY

1 February 1802[1]

. . . . . .

Slaves, Aborigines, Neighbouring Tribes.

[114–16. Slaves are on the whole well treated and cared for, but if the aborigines were not treated so cruelly by the settlers their voluntary labour would enable the Colony to do without slaves.]

Most important of all, an entirely different system of treatment must be meted out to the aborigines of the country,—the Hottentots,—from that formerly shown towards this unfortunate peace-loving nation. They should be taken into voluntary service at a good wage, either by the day or by the year. We can expect them to do as much work as a slave only when we are prepared to give them a wage for their services equivalent to the expense incurred in buying a slave, including the interest on the capital expended in the purchase price, the cost of clothes and support, and the expense of sickness, old age and death.

117. Aborigines and neighbouring Tribes.

This naturally leads us to draw the attention of Government to the

[1] J. A. de Mist, *Memorandum on the Cape*, Cape Town 1920, pp. 251–5. *J. A. de Mist* was a member of the Dutch Council for the Asiatic possessions, and was appointed Commissary General in 1802 when Cape Colony was handed over to the Batavian Republic. He was a liberal reformer much influenced by Rousseau. de Mist drew up this Memorandum, as a member of the Department for India Affairs, following the appointment of a Committee by the Council for Asiatic possessions.

lot of the former inhabitants of this country, and of the tribes on its borders. On what grounds did these poor creatures deserve the persecution and ill-treatment meted out to them by the Company's servants from the very founding of the Colony? From the caves of their fathers, they watched a foreign nation take possession of their coasts, offering not the slightest opposition; they gradually retreated before the advance of the strangers, and provided them with cattle, sheep, and goats; but all this could not sate the white man's greed. Covetous, as we might suppose, to emulate the Spaniards in America, but in a smaller field and to a lesser degree, the colonists hounded down these timid wretches, destroyed their kraals and villages, stole their cattle, seized the men and boys and reduced them to a state of subjection and slavery, drove others, in fear of their lives, to seek shelter in the depths of wild caves and forests, and callously allowed them to sink into a state of utter barbarism. These people have now become in turn the most dangerous enemies of the Colony, and a continual guerrilla warfare of defence and attack has to be waged against the Bushmen-Hottentots, in which all the principles of civilization and humanity are lost sight of. The border farmers in the Graaff-Reinet district seem to realize in their conduct, the tragic ideal of Hobbes, *Bellum omnium contra omnes.*[1] . . .

[He goes on to argue that 'the alienation of this people is entirely the fault of the colonists themselves' and cites a series of decrees issued by the Dutch Government at the Cape between 1677 and 1793 to show that the latter had tried with little success to restrain the colonists from 'hunting down, plundering and murdering these former inhabitants of the country'.]

5

CAPE COLONY: LIEUT.-COLONEL RICHARD COLLINS TO GOVERNOR LORD CALEDON

6 August 1809[2]

. . . I mentioned in another despatch my fears of an improper connection existing between the Kaffres and the members of the institution at Bethelsdorp. Subsequent inquiries and observations have served to strengthen my suspicions, and the late desertion of a Hottentot named Hans Trompeter, a noted chief of the former insurgents, with several other members, who have since joined the Kaffres and committed several depredations upon the farmers, can leave no doubt upon that subject.

[1] de Mist seems later to have revised his opinion of the merits of the Hottentot case and to have taken a more sympathetic attitude towards the frontier farmer.
[2] C.O. 48/6. Printed in *R.C.C.*, vol. vii, pp. 106–13.

On the 6th April I visited this place, accompanied by the landdrosts of Graaff-Reinet and Uitenhage. . . .

[He goes on to give a somewhat critical account of the conditions obtaining at Bethelsdorp under Doctor Van der Kemp and James Read.]

Independently of the inconvenience and danger occasioned by the connection of the people of this institution with the Kaffres, its existence has been the cause of the greatest embarrassment to the inhabitants of the neighbouring districts, whose servants leave them on the slightest pretext to repair to Bethelsdorp, thereby depriving them of the means of preserving their cattle from the Kaffres and Bosjesmen. A regulation of General Janssens prohibits the missionaries at Bethelsdorp receiving Hottentots from the service of the farmers, or who had been residing with them during the preceding year; but this is unattended to, as well as another of the same governor, forbidding all instruction in writing without the express permission of government.

My reflections on these subjects have given rise to the following suggestions, which I beg respectfully to offer to your Excellency's consideration.

It appears to me that the Missionary Institutions for the instruction of Hottentots should be limited to those already established by the Moravians.[1] The greatest benefit might be expected from the establishment of a work-house at these Institutions, and at each drostdy, for the support of the helpless Hottentots, and for the education and maintenance of the orphans and the abandoned and neglected children of that people. Moral and religious principles might be inculcated at the former by the missionaries, and at the latter by the district clergymen. I think, however, that reading and writing should not form any part of their instruction; but a knowledge of all the mechanical arts, except that of a gunsmith, should be encouraged, for the purpose of lessening the expenses of the institution, and of enabling the members of it to gain a future livelihood by being useful to others. Superintendents should be appointed for these establishments, and Government should be made acquainted with their state from time to time. . . .

In order that the remaining Hottentots may be rendered useful to themselves and to the rest of the community, I conceive that they all should be sent to reside with the inhabitants, except such of them as are in the service of government, or at the missionary or orphan institutions, or as understand trades, which it would be advisable to encourage them to exercise at the several drostdies. Their masters should be obliged to instruct them in the general principles of religion and morality; to treat them well; and to give them wholesome and sufficient food. Much evil is occasioned by masters selling liquors to their servants, in part payment of wages, and that practice should be

[1] Genadendal and Mamre.

strictly prohibited; but the measure which I conceive of the first importance to the protection of the Hottentot and the improvement of his situation, is a sacred observance of his annual engagement. A Hottentot can now seldom get away at the expiration of his term. If he should happen not to be in debt to his master, which he must have more caution than is characteristic of his race to prevent, he is not allowed to take his children, or he is detained under some frivolous pretence, such as that of cattle having died through his neglect, and he is not permitted to satisfy any demands of this nature otherwise than by personal service.

When these pretexts shall be overruled, and a master shall know that he cannot secure the service of his Hottentots otherwise than by attaching them to him, he will feel it his interest to treat them kindly.

Another consequence of being enabled to change their masters annually will be increase of wages. In the distant parts of the colony a male Hottentot seldom receives more in the year than twelve or fourteen Rix-dollars, which may be paid either in money, clothes, or cattle. A female obtains much less. A great deal is said by the inhabitants of the expense of maintaining the children of these people; but I think without foundation, for a child can scarcely crawl before it is turned to some purpose. The service of a Hottentot is at least as useful to an individual as it is to the state. In the latter case his wife and children are subsisted without being of the slightest benefit to the public; and after one half of his pay is deducted for rations, and perhaps one fourth for other purposes, he receives nearly £5 sterling, or thirty Rix-dollars, annually, besides good clothing.

It would be attended with the best effects if the landdrost, deputy landdrost, or two heemraden, were annually to visit each habitation, inquire into the treatment of the Hottentots and slaves, examine the engagements of the farmer, and make a detailed report upon oath respecting all these points to Government. The landdrost should make his part of these visits in such a manner as to be enabled to see and report upon every habitation of his district within the period of three years.

Should the proposed regulations be approved and adopted, or other substituted, I conceive it would be advisable that the arrangements concluded on should be communicated as soon as possible to the people at Bethelsdorp; that the helpless, the orphans, and the neglected children now there should be established at the Drostdy of Uitenhage, and that the other members should be directed to determine between proceeding either to Genaden Dal or to Groene Kloof, or to take service with the inhabitants. I think it should be signified at the same time to the Ghonaquas, Kaffres, and Heitemana Hottentots (bastard Kaffres) now residing at Bethelsdorp, that they must immediately choose between Kaffreland and the colony. If they prefer the latter, they might, I conceive, be permitted to proceed to

one of the Moravian establishments, or to the service of the inhabitants, but they ought to be prohibited from residing in the districts of Swellendam, Graaff-Reinet, or Uitenhage.

The brethen of Bethelsdorp should then, I think, be advised to suspend their views with regard to the Kaffres and Tambookies [Tembus] until a more favourable period, and encouraged to proceed to Madagascar or to the northern frontier; in the last event I conceive that the members of their institution should be confined to Bosjesmen, that they should not be allowed to have more Hottentots, or other description of people, than may be necessary as tradesmen or servants, suppose twenty persons of each sex, that they should be forbidden from employing or otherwise harbouring Kaffres or Ghonaquas [Gunukwebes], or persons being a mixture of, or connected with, those nations, and that they should be recommended to direct the attention of their pupils less to literary than to mechanical occupations. . . .

6

CAPE COLONY: PROCLAMATION BY GOVERNOR LORD CALEDON, 1 November 1809[1]

Whereas it appears that the provisions made from time to time for securing the fulfilling of contracts of hire between the inhabitants of this colony and Hottentots are not sufficient for the intended purpose; and whereas for the benefit of this colony at large, it is necessary that not only the individuals of the Hottentot nation in the same manner as the other inhabitants should be subject to proper regularity in regard to their places of abode and occupation, but also that they should find an encouragement for preferring entering the service of the inhabitants to leading an indolent life, by which they are rendered useless both for themselves and the community at large;

I therefore have thought proper to establish and ordain, and by these presents do establish and ordain:

1st.—That all and every Hottentot in the different districts of this colony, in the same manner as all inhabitants, shall have a fixed place of abode in some one of the districts, and that an entry of the same shall be made in the office of the fiscal, or the respective landdrosts, and that they shall not be allowed to change their place of abode from one district to another, without a certificate from the fiscal or landdrost of the district from which they remove, which certificate they shall be bound to exhibit to the fiscal or landdrost of the district where

[1] *Parl. Papers*, 1835 (50), vol. xxxix, pp. 164–6. Also printed in *R.C.C.*, vol. vii, p. 211. The further Proclamations of 12 April 1812 and 19 July 1819 are printed in *R.C.C.*, vol. viii (1901), p. 385; vol. xii, p. 249.

they intend to settle, for the purpose of being entered in their office; while every Hottentot neglecting this order shall be considered as a vagabond, and be treated accordingly.

2nd.—That every inhabitant who engages a Hottentot in his service for the space of a month, or any longer period, shall be bound with the same to make his appearance before the fiscal or the landdrost, or the field-cornet of his district, and there enter into and sign *in triple* a proper written contract. . . . In [a] case where it is proved that the Hottentot was ignorant of these present regulations, upon the existence of a hire contract being satisfactorily proved, the engagement shall stand good in favour of the Hottentot, who shall be entitled to all the advantages secured by this proclamation to Hottentots entering into contracts before the fiscal, landdrost or field-cornet. . . .

4th.—That the agreement expiring on the last day of the time stipulated in the contract, the servant shall not be obliged to continue his services any longer, but be at liberty with his wife and children (if they are with him) and with all his cattle and other property of whatever nature it may be, to leave the master, and enter another service, or act in any other manner the laws of this colony admit of, without being hindered by the master, or anyone on his part, on pain of forfeiting 100 rix dollars, to be divided in three shares, one third for the treasury of the district, one third for the magistrate who prosecutes, and the remaining third for the Hottentot thus molested.

5th.—That the master shall be obliged to pay the wages agreed for strictly on the periods mentioned in the agreement; and that in case of neglect, upon the Hottentot's lodging a complaint, the case shall be tried by a committee of the court of justice, in the presence of the fiscal, if in the district of the town, and by the board of the respective landdrosts and heemraaden if in one of the country districts, which board, upon a summary investigation, shall administer justice; and in case the complaint is well founded, the master not only shall be obliged to pay the servant his wages, but shall over and above forfeit all claim to the further fulfilment of the contract, as likewise all claim on account of such necessaries as he may have provided.

6th.—That before the said committee of the court of justice, and the board of landdrost and heemraaden, in the same manner shall be tried all cases in which a Hottentot lodges a complaint against his master for ill treatment; when if upon a summary investigation the fact be found true, the Hottentot shall be discharged from his service, and the master be fined in a fine not exceeding fifty rix dollars, and not less than ten rix dollars, according to the nature of the ill treatment; and the Hottentot, if found to have urged his complaint wantonly or malignantly, shall receive such correction as the nature of the case shall require. (This article is not to extend to ill treatment accompanied by mutilation or injury done to any part or limb of the body, by which the complainant may be deprived from the use thereof

for some time or for ever; but in these cases the fiscal or the landdrost shall prosecute according to the common law in use in this colony.)...

8th.—That no wine, brandy, or other spirituous liquors, shall be considered as necessaries of life, and consequently no allowance shall be made for the supply thereof to a Hottentot by his master, during the period of his employment.

9th.—That in case it is found, at the expiration of the term of contract, that the Hottentot has been supplied with more than what the amount of the wages he agreed for comes to, the master shall not have any claim on that account on the Hottentot's or his family's further services, but shall notwithstanding be obliged to let him or them depart....

10th.—That the master shall in no case be allowed to detain, or prevent from departing, the wife or children of any Hottentot that has been in his service after the expiration of the term of contract of their husband or father, under pretence of a security for what he may be indebted to him, not even if he had any claim on the wife or children themselves, for money or any other advances....

12th.—That the whole of the property which a Hottentot may leave behind on his decease shall be given up by the master to those who according to the laws and customs of this colony shall be entitled to the same.

13th.—That the Hottentots engaged in the manner prescribed in the second article shall be bound diligently and honestly to serve their masters during the period of their contract, and to behave with proper submission, on penalty, that in case any founded complaints about their non-complying with their contract be lodged against them, to the fiscal or respective landdrosts, they shall by order of the same be subjected to domestic correction; or if their misconduct deserves a severer punishment, they shall, upon a summary investigation of the case, by a committee of the court of justice, or heemraaden, be punished with confiscation of the wages due to them, or part of the same, or a temporary confinement, or a more severe domestic corporal punishment, according to the exigency of the case, independent of their being bound to serve out their full time according to agreement.

14th.—That this, however, shall not extend to cases where any public criminal offence has been committed by the Hottentots, who are in such cases to be prosecuted by the fiscal or landdrost of the district in the usual manner....

16th.—Lastly, the Hottentots going about the country, either on the service of their masters, or on other lawful business, must be provided with a pass, either of their commanding officer, if in the military service, or the master under whom they serve, or the magistrate of the district, on penalty of being considered and treated as vagabonds....

And in order to give the fullest publicity to this my intention and command, besides the usual means of making the same known, I do hereby direct each and every ward-master of this town to appoint and assemble one Hottentot from every house in the respective wards, and each field-cornet in the several country divisions one Hottentot from each house in such division, as early as possible after the receipt of this proclamation, and to explain, or cause to be explained to such Hottentots so assembled, the full meaning thereof; and I do further direct the ward-masters and field-cornets aforesaid to report to His Majesty's fiscal, and to their respective landdrosts, their having complied with this instruction, as they shall answer the contrary at their peril. . . .

7

CAPE COLONY: GOVERNOR SIR JOHN CRADOCK TO LORD BATHURST, 15 April 1814[1]

Government House, Cape Town.

My Lord,

In some preceding dispatches I have taken the liberty to state to your Lordship that I thought it to be my duty to place in your Lordship's office some remarkable cases that had occurred in the Courts of Law since my arrival here, and to which it may not prove unacceptable to recur, should it be found expedient to revise the laws and judicial proceedings of the colony or eventually upon a complete cession of the Settlement to introduce British jurisprudence and practice. . .

[Cradock pays tribute to the impartiality of Jan Truter, as Chief Justice.]

But such is the constitution of the Court, where plurality of suffrage decided the question, and where inveterate habits and peculiar local proceedings must have complete sway, that it is not in the power of any single person, were he even shaken entirely free from the power of custom and education, to secure the free operation of his own understandings and feelings, and always effect that which is immutably right.

I shall therefore now transmit to your Lordship five[2] judicial

[1] C.O. 48/22. Printed in *R.C.C.*, vol. x, pp. 1–2. In July 1812 Cradock had appointed a Commission to investigate the charges, made by the missionaries Van der Kemp and Read, of miscarriage of justice and ill treatment against certain employers of Hottentots and slaves in certain inland districts. The proceedings of the Commission (see Van Blokland's report, *R.C.C.*, vol. ix, pp. 328 ff.) became notorious as the 'Black Circuit'. While Cradock criticized the acrimonious spirit in which the missionaries had made their accusations and believed them 'highly exaggerated', he himself investigated the records of the Court of Justice in Cape Town, and reported his findings here.

[2] Only two are printed here (see also C.O. 48/25, 26 for detailed correspondence on these cases).

proceedings of, as I conceive, a peculiar character, accompanied by some papers that may render them more marked and clear.

[1] J. S. Cloete, for the murder of the Hottentot girl Mietje. The perusal of the proceedings will fully prove the atrocity and singular barbarity of the act, as the deceased, when killed, held a child in her arms exposed to the same shot that deprived the mother of her life.

The sentence seems a mockery of justice: 'to have a sword brandished over the criminal's head, and to be banished the colony'.

It is very worthy of observation also that an appeal was made even against so extraordinarily lenient a sentence.

I request attention to the declaration I could not withhold making at the time I confirmed the sentence, and had it been in my power to have altered the verdict and awarded death I should have done it. The petition from the wife of the prisoner[1] will strongly exemplify the state of ignorance and indifference upon the life of a fellow creature, in which the remote parts of this colony remained.

[2] Jacob van Reenen for the murder of his slave August.

The consideration of this trial will amply, I conceive, manifest the full guilt of the prisoner.

In my opinion, and that of the whole community, a more deliberate cold-blooded scene of persecution and cruelty, even unto death, was never exhibited.

The sentence: three months imprisonment! ! !

The haughty and audacious petition from the prisoner, because a member of the most opulent and highest connected family in the Settlement, to the Colonial Government, arraigning the Court of Justice for the severity of such a sentence, adds strongly to the character of this process, which it would be for the interests of the judicial proceedings of this colony to have cast into oblivion. . . .

8

CAPE COLONY: MEMORIAL SUBMITTED BY THE LONDON MISSIONARY SOCIETY TO LORD BATHURST, 27 August 1823[2]

Mission House, Austin Friars.

The Memorial of the Directors of the London Missionary Society humbly showeth

That the Missionary Society, about twenty years since, sent out

[1] *R.C.C.*, vol. x, pp. 8–9. She pleaded that many similar acts of manslaughter against Hottentots and slaves had been treated more leniently.

[2] C.O. 48/61. Printed in *R.C.C.*, vol. xvi (1903), pp. 215–22. Another memorial was submitted on 4 July 1825 (*R.C.C.*, vol. xxii (1904), p. 133) in defence of the Hottentots and the missionary institutions.

missionaries to the Cape of Good Hope, in order to communicate Christian instruction to the Hottentots, and to promote their civilization.

That its principal settlement was formed in the district of Uitenhage, in the vicinity of Algoa bay, on land granted to the Society by the Dutch Government, then in possession of the colony, to which was given the name of Bethelsdorp.

That on the demise of the Revd. Dr. Vanderkemp, Superintending Missionary, which happened in the year 1811, the Directors deputed the Revd. John Campbell, of Kingsland, to proceed to Africa, for the purpose of visiting the several Missions of the Society in that quarter; of devising suitable plans for their improvement, and collecting such information as might enable the Society to prosecute, to a still wider extent, its benevolent objects with regard to the Hottentot and other heathen tribes of that country.

That notwithstanding the measures adopted by Mr. Campbell on that occasion for the improvement of the Missions, abuses unhappily crept into them, particularly into that of Bethelsdorp, which were to be attributed, in a considerable degree, to the loss sustained by the death of the Superintending Missionary, which at that time had not been adequately supplied [*sic*].

That in order to correct the abuses alluded to, the Directors in the year 1818 sent out to Africa a second deputation consisting of two members of their own body, viz. the Revd. John Campbell before mentioned and the Revd. John (now Dr.) Philip.

That after executing, as far as practicable, the immediate objects of their Mission, the Revd. Mr. Campbell returned to England and, by the appointment of the Society, the Revd. Mr. Philip remained at Cape Town, as the resident Superintendent of its several Missions in Africa.

That the Directors have invited Dr. Philip freely to communicate to them whatever observations he might make bearing on the religious interests of the Missions, and affecting, in any measure, the moral or social improvement of the natives residing at the stations.

That Dr. Philip, in compliance with these instructions, has, from time to time, sent home to the Society sundry statements, from which it appears that the Hottentots belonging to the Society's Settlements, particularly that at Bethelsdorp, are subjected to a variety of exactions and restrictions, not imposed upon other inhabitants of the same districts, nor upon the Hottentot population belonging to some other Missionary Institutions within the colony, not in connection with the Society.

That the grievances in question appear to the Directors calculated, in a material degree, to retard the civil improvement, as well as to diminish the social comfort, of the Hottentots, and also to be inconsistent with their immunities as British subjects, in which capacity

the Directors presume they are explicitly recognized by His Majesty's Government.

That the Directors, persuaded of the just and liberal policy of His Majesty's Government, and the benevolent dispositions by which it is actuated, respectfully take leave to lay before your Lordship a brief statement of some of the more prominent grievances to which the Hottentot population, attached to the Society's station at Bethelsdorp are subject. . . .

That the Hottentots at Bethelsdorp are commanded by the local authorities of the district to quit their own respective occupations, however important to the subsistence and comfort of their families they may be, in order to engage in various public works, such as the repairing of roads, the building and repair of bridges, the cleansing of watercourses etc. in the village of Uitenhage and its neighbourhood, a distance of several miles from Bethelsdorp; which works, it is obvious, tend almost exclusively to the advantage and convenience of the inhabitants of that vicinity.

That the Hottentots whose services are thus compelled by the local authorities are not engaged at any fixed rate of wages or for a limited time, but are required to labour at the above-mentioned or such other public works for an indefinite period, and at a rate of wages stipulated solely by those authorities themselves, and which is so low as to leave nothing for the support of the families of the Hottentots thus employed.

That before the Hottentots thus commanded by the local authorities receive their discharge, they are not unfrequently required by the said authorities to perform work for the subordinate officers of Government, and for others, as private individuals, from whom they receive as wages no more than the Government allowance. . . .

That in consequence of the above-mentioned and other similar grievances, the Hottentots of Bethelsdorp and their families are unavoidably exposed to most serious privations, losses and distresses, from which it appears to your Memorialists, justice and humanity equally require that they should be protected. . . .

[A number of instances of the hardships thus inflicted upon Hottentots at Bethelsdorp are cited.]

That the local authorities exercise the power of prohibiting the Hottentots from going to reside at particular Mission Institutions, thus separating husbands from their wives, brothers from their sisters, and parents from their own offspring, and even aged parents from residing near their children who might contribute to their support, thus assimilating the misery of their condition to that of the slave negroes, whom an inhuman traffic tears away from their relatives and their homes.[1]

[1] The prohibition here mentioned appears to be in direct contravention of the 4th Article of the Proclamation issued by Lord Caledon in November 1809.

That the Hottentots are liable to be severely flogged at the will of their masters, or on complaint to the Landdrost, by others under his orders. The freed slaves, although Mohammedans, if they enter into service and reside in the same district, are exempted from this arbitrary and degrading, as well as often very severe punishment, while on the Hottentots of Bethelsdorp, who are not only British subjects, but for the most part baptized Christians, it is inflicted.

That the Hottentots are subjected to great inconveniences and vexations by the local authorities requiring *passes* to be furnished by the Missionary, before they can be allowed to travel from one place to another, which are also required to be countersigned by the Field-Cornet of the district, and are subjected to sundry vexatious Regulations not authorized by the Proclamation of November 1809. . . .

That no proof can be brought forward to show that the aggrieved have at any time conducted themselves towards the Government or the local authorities in any other manner than became the most entire submission to every law or civil regulation made known to them, and the same is affirmed with regard to those individuals who as Missionaries have at different times been placed in charge of the Institution. . . .

That with regard to certain of the Society's Missions in South Africa, where Kraals of Hottentots have been established, whom the Society proposes to instruct in Christian knowledge and to improve in civilization, the colonial Government claims the right of appointing and dismissing the Missionaries of the Society or, which amounts to the same thing, requires that the appointment of the Missionary by the Society or its authorized representative should be sanctioned by the Government, and that the continuance of such Missionary at the station, if located, should depend on the opinion which the Government shall be pleased to form concerning his conduct.

It would be unnecessary for the Directors to state to your Lordship that such a claim as this virtually deprives the Society of its right to appoint its own Missionaries and to exercise over them a proper control, and is utterly inconsistent with the practice of all Societies instituted for sending the Gospel to the heathen. . . .

[Dr. Philip can supply evidence concerning the oppressions and the 'lawful claims' of the Hottentots 'as British subjects' to the Commissions of Inquiry which have been appointed to visit the Cape.]

Signed by order of the Directors.
WM. A. HANKEY, *Treas.*
GEO. BURDER, *Sec.*

9

CAPE COLONY: RESOLUTION OF THE HOUSE OF COMMONS, 15 July 1828[1]

Resolved, That this House has observed with great satisfaction that the original natives of South Africa have always been recognized by the British Government as a free people, having a lawful abode in the colony; and that the British Government has promised to protect their persons, property and possessions, the same as those of other free people: that this House humbly solicits His Majesty to cause such instructions[2] to be sent to the colony of the Cape of Good Hope as shall most effectually secure to all the natives of South Africa the same freedom and protection as are enjoyed by other free people of that colony, whether English or Dutch: that this House further humbly requests His Majesty to order copies or extracts of the Special Reports of the Commissioners at the Cape of Good Hope, relative to the condition of the Hottentots and Bushmen, together with the papers given in to the Commissioners by Dr. Philip, and the memorials addressed to the Colonial Office by the directors of the London Missionary Society; to be laid before this House.

10

CAPE COLONY: FIFTIETH ORDINANCE 17 July 1828[3]

Ordinance of his Honour the Lieutenant-Governor in Council, for improving the condition of Hottentots and other free persons of colour at the Cape of Good Hope, and for consolidating and amending the laws affecting those persons. . . .

II. And whereas by usage and custom of this colony Hottentots and other free persons of colour have been subjected to certain restraints as to their residence, mode of life, and employment, and to certain compulsory services to which others of His Majesty's subjects are not liable; be it therefore enacted, that from after the passing of this ordinance, no Hottentot or other free person of colour, lawfully

[1] *Hansard*, vol. xix, 1694. This Resolution was moved by Fowell Buxton and seconded by Sir George Murray.

[2] Such instructions were of course unnecessary, for the 50th Ordinance had been promulgated only two days after the Commons debate.

[3] *Parl. Papers*, 1835 (50), vol. xxxix, pp. 169–73. This was the work of Acting-Governor Bourke on the basis of a report in April 1828 by Andries Stockenstrom, the Commissioner-General of the Eastern Districts. This Ordinance was ratified by an Order in Council of 15 January 1820. Another of April 1829 applied similar principles to the free 'coloureds' of Trinidad.

residing in this colony, shall be subject to any compulsory service to which other of His Majesty's subjects therein are not liable, nor to any hindrance, molestation, fine, imprisonment or punishment of any kind whatsoever, under the pretence that such person has been guilty of vagrancy or any other offence, unless after trial in due course of law, any custom or usage to the contrary in anywise notwithstanding.

III. And whereas doubts have arisen as to the competency of Hottentots and other free persons of colour to purchase or possess land in this colony; be it therefore enacted and declared, that all grants, purchases and transfers of land or other property whatsoever, heretofore made to or by any Hottentot or other free person of colour, are and shall be, and the same are hereby declared to be, of full force and effect, and that it is, and shall and may be lawful for any Hottentot or other free person of colour, born or having obtained deeds of burghership in this colony, to obtain and possess by grant, purchase or other lawful means, any land or property therein, any law, custom or usage to the contrary notwithstanding.

IV. And whereas it is expedient to protect ignorant and unwary Hottentots and other free persons of colour as aforesaid from the effects of improvident contracts for service; be it therefore enacted, that it shall not be lawful for any person within this colony to hire or engage by any parole or written agreement (except as hereinafter provided) any Hottentot or other free person of colour as aforesaid for any period exceeding one calendar month, such engagement being renewable from month to month, or for any shorter period, at the option of the contracting parties; and any parole or written engagement for any longer period (except as hereinafter provided) shall be, and be continued to be, of the same force and effect as if the same had been entered into for one month only. . . .

[Contracts by mutual consent for longer periods are to be drawn up before a magistrate and are not to exceed one year.]

XIX. And be it further enacted, that from and after the passing of this ordinance all disputes or complaints between masters and mistresses and their servants, being Hottentots or free persons of colour, hired or contracted under the provisions of this ordinance, or under the provisions of the said recited ordinance, No. 49, dated the 14th day of July 1828, shall and may be heard and determined by the resident magistrate of the district or place where such master or mistress shall inhabit, and shall and may be heard and determined by one or more justice or justices of the peace of such district or place; provided always, that no justice of the peace shall have jurisdiction in any case of complaint for non-payment of wages when the matter in dispute shall exceed the sum of 20*s*. sterling.

XX. And be it further enacted, that where such dispute or complaint shall be brought before any such justice or justices of the peace by any such servant, the said justice or justices shall and may summon

the master or mistress complained of to appear personally before him or them, at a reasonable time set forth in such summons; and such justice or justices shall and may inquire into and hear and determine the matter of such dispute or complaint, whether the said master or mistress shall appear before the said justice or justices or not, proof having been made on oath of his or her having been duly summoned; and the said justice or justices shall and may examine, on oath, any such master or mistress, or servant, or any other witness or witnesses, touching any dispute or complaint brought before him or them as aforesaid, and shall make such order therein as the case shall require.

XXI. And be it further enacted, that if, upon the complaint of any master or mistress touching any misdemeanour or ill behaviour of any such servant in his or her service or employment, the said resident magistrate or justice or justices of the peace shall adjudge the same to be true, then it shall and may be lawful for the said resident magistrate or justice or justices of the peace to punish the said offender, by commitment to any gaol or house of correction in his district, to be held to hard labour for any time not exceeding one calendar month or otherwise by abating some part of the wages of such offender, not exceeding one month's wages for any one offence, or by discharging him or her from the said service, with the consent of the said master or mistress, as the said resident magistrate, justice or justices shall see fit.

XXII. And be it further enacted, that if, upon the complaint of any servant against his or her master or mistress, touching any ill usage, refusal of necessary provisions (where the same are agreed to be supplied) or other ill treatment, the said resident magistrate or justice or justices of the peace shall adjudge the same to be true, then it shall and may be lawful for the said resident magistrate or justice or justices of the peace to discharge such servant from his or her service or employment (which discharge shall be under the hand of such resident magistrate, justice or justices, without charge), and further shall and may order all wages then due to such servant to be paid by the said master or mistress; provided always, that nothing herein contained shall extend to deprive such servant of any remedy, by action in any competent court, for the recovery of damages for any injury such servant may have sustained by the ill treatment of his or her master or mistress. . . .

11

CAPE COLONY: REPORT OF THE COMMISSIONERS OF INQUIRY ON THE HOTTENTOT POPULATION OF THE CAPE OF GOOD HOPE, AND OF THE MISSIONARY INSTITUTIONS, 1830[1]

[The principal provisions of the Hottentot Proclamations of 1809 and those of 1812, 1817, and 1819, which instituted an apprenticeship of Hottentot children, are recited, and their operation examined. In general, the conclusion arrived at is that the safeguards thereby established in the interests of the Hottentots have been largely ignored, notably as regards their right to possess land and the obligations of their employers to observe the conditions of labour contracts. The pass system is also criticized as having caused many inconveniences and as having placed the Hottentots 'under the control of every inhabitant of the colony'. Witnesses have given evidence for Colonel Cuyler on his conduct towards the missions.]

. . . Making due allowances for the circumstances which these witnesses have detailed, it should be observed that the restraints upon the Hottentots were continued long after the circumstances which justified them had ceased to exist, and that the changes in the system pursued at Bethelsdorp were not followed by any corresponding relaxation of the rule by which Colonel Cuyler[2] took upon himself to regulate the admission of the Hottentots to that institution. That he viewed with jealousy the acquirement of land by them is proved by the haughty denial which he gave to an application by a Hottentot who had formerly been in his service; and it appears from his own admission, as well as from the evidence of the man upon whom he inflicted personal chastisement for a very slight fault, that he was not unwilling to give practical proof of the existence of that line of distinction by which, in his opinion, the condition of the Hottentots and that of the free burghers of the colony was separated. The superintendent of the missions [Dr. Philip], however, has not confined to Lieutenant-Colonel Cuyler alone the charge of hostility to the Hottentots, and to the missionaries; he has imputed to the colonial Government of the Cape a systematic attempt to place the Hottentot population in a state of entire subjection to the white inhabitants, to perpetuate the degradation of the former, and thus to establish a belief of their incapacity for the exercise of civil rights or for moral improvement. Upon a later occasion, the colonial Government has been charged by the superintendent with an intention of crushing the missionary institutions. The laws which have been already mentioned, and by which the contracts of Hottentots, and the apprenticeship of

[1] *Parl. Papers*, 1830 (584), vol. xxi, pp. 21–22. Though Bathurst and Bourke had been kept informed of their impressions in letters of 1826–8, no formal report was expected until the middle of 1829 (*R.C.C.*, vol. xxxv, pp. 297, 303) and Bigge did not sign it until January 1830.

[2] *Colonel Cuyler* was Landdrost of Uitenhage and had become an enemy of the missionary institution at Bethelsdorp.

their children, are regulated, have been quoted in proof of the first part of this charge. It would appear that much of the objection that has been made to this enactment arose out of its defective administration, and to the want of an explicit declaration of the rights of the Hottentots to hold lands. It acknowledged their rights to accumulate movable property, but if it gave them no means or right to secure it, what could be expected from their industry, or what corrective could such a law supply to their habitual carelessness and indifference? The consequence of this has been, that several Hottentots, who had accumulated a stock of cattle and waggons, have continued to live as hired servants to the farmers. Nor can it be alleged that the Hottentots are incapable of cultivating land, and of making a profitable use of it; the state in which some land was found near the village of Clanwilliam, after it had been occupied and brought into cultivation by a Hottentot, proves to what extent they will push their industry when assured of earning the fruits. If any pains had been taken to select from the missionary institutions Hottentots of intelligence, and who had acquired movable property, and if land in favourable situations had been offered to their acceptance, it cannot reasonably be doubted that they would have become industrious farmers, and respectable members of the community, equally independent of the missionary institutions as of the farmers. The tendency of the law of apprenticeship has been that of confirming the effect of the preceding one, and of multiplying the sources of influence in the master, and of extending the terms of service of Hottentot parents. I have been unable to discover in what respect it has been advantageous to the children, with the exception of the few of those who have learnt trades. From the observations made in the earlier part of this Report, upon the nature of the service of the Hottentots, and of their liability to that which has been called 'domestic correction by the master', it will not be presumed that their moral characters can have gained by their contract with the colonists. . . . If, however, the Hottentots have gained little by their service with the Cape Dutch masters, that of the English settlers have not been more advantageous. The imperfections of their character [their 'want of energy'] are more obnoxious to the latter than to the former; and although they are not visited with such severe chastisement, yet the effect of angry words upon the Hottentots will sometimes lead them to commit violence, and not unfrequently cause them abruptly to leave their service. Idleness and inebriety are habits to which they are fatally addicted, and the offence of cattle and sheep stealing is that for which they are most frequently brought before the courts of justice. I am not aware of any attempt having been made or sanctioned by the colonial Government to instruct the Hottentots, or to promote their improvement; much favour has always been shown towards the Moravian missions, and a preference over those of the London society, on the alleged ground of the superior efficacy of the

former in exciting the industry of the Hottentots. Until a late period of the Bethelsdorp institution this preference might have been due, consideration being had to the great local advantages of the Moravian missions; and while the success of the mission at Bethelsdorp was at least problematical, it is not very surprising that the local Government should have hesitated in giving its sanction to the accumulation of so large a portion of the labouring population in one place, and subjecting it to a species of theocratic influence, which might operate unfavourably to that of the civil authority. Much of the opposition that was shown by the Dutch Government to the exertions of Dr. Van Der Kemp arose from the national jealousy of the sources from whence he derived his pecuniary support, and of the friendly feelings which the Hottentots under his care had always manifested towards the English Government. Allowing, however, for the operation of those scruples at a particular period, it must be admitted, that although the existence of the missions established by the London Missionary Society has been tolerated by the local Government, yet no effort has been made by it to extend the sphere of their usefulness, or to realize the benefits of which they undoubtedly were the willing instruments. There has also been manifested a greater degree of sympathy for the demands of the white inhabitants for the labour of the Hottentots, than of respect for their rights as a free people, or of anxiety to compensate for the many injuries they had suffered by encroachment on their lands. In expressing these sentiments, I will add at the same time my dissent from that of the superintendent of the London Missionary Society, in which he has inferred an intention on the part of the local Government 'to crush the missions', from their late refusal to make an augmentation of land to those of Bethelsdorp and Theopolis.

As the great sources of those evils of which the missionary societies have complained have been removed by the provisions of the Ordinance of Major General Bourke, the Lieutenant Governor in Council,[1] and by the confirmation which His Majesty has been graciously pleased to give to it, I shall be excused from entering into a detail of the advantages which this great measure may be expected to accomplish. The Hottentots will now no longer be dependent upon the caprices of the landdrosts for permission to repair to the missionary institutions, or to engage in any place or in any employment that is open to the choice of the free population of the colony. With regard to the future occupation of land, it appears to me [to] be desirable that the Hottentots should not be congregated too much in one spot, or that in restoring to them a portion of that territory which was once their own, and in admitting them to the enjoyment of privileges in common with the rest of His Majesty's subjects in South Africa, any measures should be

[1] Bourke had waited for the Commissioners' Report, but when that was so long in coming he had decided to act upon a memorandum of the Commissioner-General, Stockenstrom.

avoided which might tend to impress them with an opinion that they are destined to form a distinct class of the population. . . .

12

CAPE COLONY: MEMORIAL SUBMITTED BY DOCTOR JOHN PHILIP TO THE GOVERNOR AND COUNCIL, 10 June 1834[1]

The Memorial of John Philip, D.D., Superintendent of the London Missionary Society's Missions in South Africa. Showeth,

That memorialist has seen in the Government Gazette, of date the 9th of May 1834, the draft of an ordinance, intituled 'An Ordinance for the better suppression of vagrancy in this colony'.[2]

That from his knowledge of the past and present state of society in this colony, of the relations in which the different classes of the inhabitants stand to each other, and of the feelings and sentiments which have arisen out of that state and those relations, memorialist is deeply impressed with a conviction that such an ordinance is not needed at the present moment, and it will check the improvement of all, but particularly of the poorer classes, and open a door to much oppression, and to great and lasting evil to the whole colony. . . .

[The outcry against vagrancy since 1828 is exaggerated. The freedom of the Hottentots by the 50th Ordinance has been productive of great improvements.]

That the proposed ordinance will instantly bring back things to their former condition; that a system of forced labour makes reluctant servants and cruel masters; that absolute power destroys the temper of the best of men; that it is at utter variance with all the principles of the human mind, and that if it is again adopted in this colony, it will instantly operate in checking all the signs of improvement which have been alluded to, and reduce everything to that standard of wretchedness below which it is impossible for human beings to descend. . . .

That the practice of forcing them into service will deprive them ultimately of any pecuniary remuneration for their labour, take from

[1] *Parl. Papers*, 1836 (538), vol. vii, p. 729: papers submitted to the Select Committee on Aborigines, Appendix 2. Fowell Buxton was Chairman. *Dr. John Philip* had been Superintendent of the London Missionary Society's missions in South Africa since 1822. His agitation had been largely responsible for the reconsideration of the position of the Hottentots and the reforms of 1828–9.

[2] This draft Ordinance (printed, ibid., Appendix 2, p. 723), which was disallowed by Lord Aberdeen as being contrary to the 1828 settlement, required every field-cornet to arrest and bring before the local magistrate all persons 'who cannot give a satisfactory account of themselves'. If upon examination the magistrate shall find that the arrested person has 'no honest means of subsistence', he is to be compulsorily employed on public works until arrangements shall have been made for his entry into private employment. Any person so apprehended and making his escape before being regularly discharged shall be liable to imprisonment with hard labour for a period not exceeding twelve months.

them the means of providing for their families, and bring them and their children under the necessity of stealing or starving; that the masters not having that interest in their wives and children as they had in the wives and children of slaves, and feeling himself under no legal obligation to provide for them, to save the children from starving, the proposed ordinance, should it be enforced, must shortly be followed by another for apprenticing the children, as under the old Hottentot system; and thus, as one error leads to another, the system of forced labour, by reducing the wages of the labourer, will entail upon those unhappy people the worst evils of slavery; evils that will have no end but with the lives of the sufferers, or the extermination of their race. That the Hottentots, when they have good wages or a fair remuneration for their labour, have proved themselves to be an industrious and honest people; that a great proportion of those on the Kat River never were at a missionary institution, but were of that class of people that, under the proposed ordinance in the hands of the local authorities, will come under the denomination of vagrants, and yet there is no place in the colony where industry and good conduct are so conspicuous amongst an equal number of people; that during seven years there has been but one criminal case brought from that settlement before the circuit court, and in that case the man was acquitted; whereas in Albany, amongst an equal number of people, the list of crimes before that court every six months is appalling. . . .

That the disposition towards the coloured races evinced by many of these officers on a late occasion, even in the Cape and Stettenbasch [Stellenbosch] districts, sufficiently demonstrates the inexpediency of investing them with such powers as those contemplated by the proposed ordinance, many of them having joined the most violent of the Boors in publicly defying the authority of government, and resisting, with open threats and acts of insubordination, every attempt to ameliorate the condition of the slaves in this colony. . . .

[He states that during the past week not less than 200 independent Hottentots, industrious and propertied, have arrived at the missionary institution at Pacaltsdorp, pleading for admission, because the field-cornets told them that the 50th Ordinance was to be taken away and that they were no longer to remain without masters. It is to be expected that all the other missionary institutions in the colony will be similarly besieged.]

That memorialist always contemplated it as a good that it was hoped would result from the 50th ordinance, that it would in the course of time supersede the necessity of keeping the Hottentots and other people of colour as a separate people, and give rise to a more natural state of society in this colony, by bringing the masters and labourers to live together as in other civilized countries; and it is therefore matter of deep concern to see the draft of an ordinance, which, however well intended, must from the peculiar circumstances of the colony destroy all this hope, and leave the wretched labourers no other asylum but such as they may find in those institutions. . . .

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