

with the execution of the Commission which we have addressed to you, the said Thomas Frederick Elliot, Robert Torrens and Edward Ernest Villiers, as Commissioners, under the said statutes. Given at Our Court at Windsor, this tenth day of January 1840, in the third year of Our reign.

By Her Majesty's Command,  
(countersigned) J. Russell.  
Thomas Frederick Elliot and Robert Torrens, Esqrs. and the Honorable Edward Ernest Villiers, to be Land and Emigration Commissioners.

—No. 2.—  
COPY OF INSTRUCTIONS addressed by Lord John Russell to the Land and Emigration Commissioners.

Downing street, January 14, 1840.

Gentlemen,—I HEREWIT transmit to you a Commission, under the Royal Sign Manual, constituting you to be Commissioners for the sale of the waste lands of the Crown throughout the British Colonies, and for applying the proceeds of such sales towards the removal thither of emigrants from this country.

It now becomes my duty to convey to you such instructions as are necessary for your guidance, in the discharge of the duty which Her Majesty has thus been graciously pleased to confide to you.

The result of my inquiries into the present system of managing the Crown Lands in the Colonies, and into the plans hitherto pursued in aid of emigration, has been to convince me of the necessity for some new arrangement at once more comprehensive and more efficient. Until now this service has been undertaken in this country, partly by the South Australian Commissioners, and partly by the Agent-general for emigration. The first step to improvement has appeared to me to consist in the consolidation of these establishments. Three Commissioners, devoting their time exclusively to this employment, will necessarily form a far more effective body than the more numerous board of nine, who have hitherto acted as South Australian Commissioners, but eight of whom, having served gratuitously, have been able to devote but a small part of their leisure to this employment. In the office of the Agent-general for emigration, on the other hand, the difficulties have unavoidably arisen from a single person being charged with extensive functions, incapable of even a temporary delegation, and executed without the benefit of the counsel and support of any colleague; but the disunion of the two offices has led to other and more evident evils. They have unavoidably been competitors with each other, to the disadvantage of the public revenue, for the hire of shipping of a peculiar class, and not readily obtained. The fact, also, of the existence of distinct offices, both under the authority of the government, may have given, unintentionally, some colour to the rival representations of irresponsible agents interested in the resort to separate colonies, and thence have contributed, though indirectly, to the evil of exaggerated appeals to the public, upon the merits of different settlements.

Having for these reasons thought it right that the two offices should be consolidated, I am, for the present at least, relieved from the necessity of entering into any explanation of the duties which will devolve on you as Colonization Commissioners for South Australia, because whatever is immediately necessary on that subject has already been so fully executed by my predecessors in this Office, and by the Lords Commissioners of the Treasury, as to leave me nothing to state, except that the Acts of Parliament and the instructions which have been addressed to your predecessors in that capacity, will form the rule for your own guidance.

In your other capacity of a General Board for the sale of lands and for promoting emigration, your duties may be conveniently arranged under the four following heads: first, the collection and diffusion of accurate statistical knowledge; secondly, the sale in this country of waste lands in the colonies; thirdly, the application of the proceeds of such sales towards the removal of emigrants; and, fourthly, the rendering of periodical accounts, both pecuniary and statistical, of your administration of this trust. Of each of these in their order.

First. There is no subject on which misapprehension and fallacies are more easily propagated, or with more fatal success, than in reference to the state, resources and advantages of those numerous dependencies of this kingdom which are spread over every region of the American, African and Australian continents and islands. Nor is there any subject on which the public at large can with equal reason demand that the Government should, as far as may be possible, supply the ignorant and unwary with authentic and unexaggerated intelligence. When the Crown, in the person of its officers, undertakes to dispose of lands at so vast a distance, and to remove emigrants thither, it is not competent to them to decline the duty of imparting a faithful account of all the material circumstances by which the choice of emigrants, especially the poorer class, should be determined. The Executive Government cannot in this case, as in transactions confined within the limits of the United Kingdom, refer those with whom it has to treat to the ordinary sources of popular intelligence, knowing that those sources are often perverted, and unworthy of confidence, and that they are to be correctly appreciated only by laborious study. We have no right to interpose actively to promote emigration, and at the same time to leave the ignorant and helpless to explore, as chance may determine, questions so deeply affecting their future welfare. On the other hand, in undertaking to impart information for the guidance of men on such an occasion, we subject ourselves to a formidable responsibility. No diligence or sagacity can effectually guard against misconceptions, more or less material, as to the real state and prospects of Colonies so numerous and so remote; and they to whom any erroneous statement may be made on such a subject by Officers acting under the authority of the Crown, will ascribe to those erroneous statements, from whatever cause arising, and will prefer claims for compensation, which it might be at once difficult to resist, and impossible to admit.

It is therefore to be considered as a first principal of your official conduct that you are

at once to be prompt in affording to all applicants the most easy access to all authentic means of knowledge, and resolute in abstaining from giving on behalf of the Government any pledge or warranty as to the accuracy of the information which you may so impart. Nor will it be enough to abstain from such assurances. Every capitalist or emigrant with whom you may be brought into communication as an applicant for statistical knowledge for his guidance must be distinctly warned that you cannot warrant the exactness of the intelligence with which you may furnish him, nor be held responsible for more than for the communication of the truth according to your own apprehension of it, and that it will be his own duty to satisfy himself as to matters of fact of this nature from every other accessible quarter, before embarking his capital or his person in so serious an enterprise. The same precautions must be strictly enforced on all your subordinate agents, and must be carefully observed by them. Yet, with your utmost caution in this respect, you will recollect that information given to the poor and ignorant by a Government officer respecting distant countries, will unavoidably be received in most cases with implicit confidence; you must therefore weigh and compare the statements you receive, and sift them scrupulously before you stamp them with any sort of authority.

Subject to the preceding qualifications, it will be your duty to diffuse, either by oral or by written statements, a distinct and compendious account of whatever relates to the agriculture, the commerce, the natural products, the physical structure, and the ecclesiastical and political institutions of each of the colonies in which you may offer lands for sale, care being of course taken to present such facts in the most precise and determinate form, unaccompanied by any superfluous comment, and still more, to strip them of any language calculated to work on the imagination, or to interfere with the calm and dispassionate exercise of their own judgment on the part of those whom you may address. To enable you to execute aright the duty of thus diffusing accurate knowledge of the statistics of the British Colonies, I have directed that all the official returns in this office bearing on the subject, with all printed books, maps and charts illustrative of it, and at present belonging to this department, or copies of them, should be deposited in your custody. Such defects as you may find in these sources of intelligence, it will be your duty to point out to me; and I shall be ready to instruct the various Governors to use all the means in their power for supplying all such omissions. Your office will thus gradually become the depository of all this branch of statistical information, for the assistance, not of private adventurers only, but of this and of every other department of the state.

Secondly. The next topic to be noticed is that of the sale in this country of the waste lands of the Crown in the British Colonies.

In every colonial possession of Great Britain, in which wild and unoccupied lands have been found, one general principle of law has been universally acknowledged. It is, that such lands are vested in the Sovereign in right of the Crown, and that every private title must rest upon a Royal grant as its basis. To what inconvenient consequences this abstract principle has formerly been urged it is needless to explain. In later times, and more especially since the year 1831, another principle, not less important, or in itself less clear, has been most distinctly acknowledged and inflexibly observed—it is, that the Sovereign holds the lands in question in trust for the public good, and cannot, without a breach of that trust on the part of the responsible ministers of the Government, be advised to make to any person a gratuitous donation of any such property. It must be appropriated to public uses and for the public benefit. Of those uses the first in order are such as respect the future improvement of the Colony in which the lands are situated, by the dedication of all convenient tracts to public works, such as roads, quays, towing-paths, sites of public buildings and of military defences, sites of churches, school houses, cemeteries and places for public recreation and health. These and similar objects being provided for, the next use of the waste lands in the Colonies is that of creating a public revenue by the sale of them. The appropriation of a part of that revenue to the ordinary exigencies of the public service will probably be found inevitable in every Colony. Even in the case of South Australia, where the opposite principle was first maintained, the Colonization Commissioners found it necessary, after a short trial of the experiment, to apply to Parliament for an Act, which has authorized the application, even there, of the land revenue, in the first instance, to the support of the civil government; although, indeed, on condition that the sums so applied should be replaced to the emigration account, when the ordinary revenue of the Colony may be adequate to meet that charge.

Without, however, digressing into a discussion which would be misplaced here, it is sufficient for my present purpose to say, that the funds raised by the sale of lands in the Colonies will be applicable to the conveyance of emigrants thither, so far, but only so far as that use of the fund may be compatible with a due regard for the pressing and necessary demands of the local governments, for which no other resource can be found. While fully admitting and insisting on the principle that the Crown lands in the Colonies are held in trust, not merely for the existing colonists, but for the people of the British Empire collectively, it is perfectly consistent with that opinion to maintain that in applying the proceeds of the sales to the essential purposes of local good government, which must otherwise be unprovided for, the real interest of the empire at large, not less than that of the Colony itself, will be best consulted. I shall, however, be happy to find the Colonies providing for such purposes of local government by import duties and other means, thus leaving the produce of the sale of lands free for the promotion of emigration from the United Kingdom.

In each Colony the Governor holds a commission, enabling him in the name and on behalf of the Sovereign, to convey the waste lands to the purchasers of them. Except by a grant under the public seal of the Colony, issued in

pursuance of such a commission, no private person can establish a valid title to such lands. It is not intended to disturb this ancient and convenient practice. Your appointment does not carry with it the power of making to any person any legal conveyance of land.

But the Governor is authorized not merely to convey waste lands, but to make, on behalf of the Crown, contracts for the sale of them. Even to this extent it is not, at present, proposed to take away his authority. So far, however, as relates to entering into contracts exercise a power concurrent with that of the Governor. It is necessary, however, before I go further, to consider more closely what are the Colonies which will fall within the range of your operations.

Amongst the Colonial possessions of the Crown, there are many in which there remains no vacant or ungranted land whatever. This is true of Malta, Gibraltar, St. Helena, Heligoland, and of many of the older British settlements in the West Indies. It is true, with no material exception, of Prince Edward Island. In Jamaica, laws passed in the last year have virtually denuded the Crown of all control over the unsettled lands in that Island.

With regard to British North America, the case stands as follows:—In Upper Canada and in New Brunswick, the sale and management of waste lands is vested by local enactments in certain local authorities, with whom the Crown has no right of interference. In Nova Scotia and in Newfoundland, there is every reason to anticipate that similar laws will be shortly passed, in pursuance of offers made by the Crown to assent to them. In the present state of affairs in Lower Canada, this, in common with many other questions, must be regarded as in abeyance. In general, therefore, it may be stated that you will have no power to contract for the sale of lands situate in British North America, or in any of the adjacent lands.

With respect to these Colonies, therefore, your duties will be limited. Still the information you will possess, and the agency which you will direct, will make it the interest both of those entrusted with the sale of land in British North America, and of emigrants about to proceed there, to resort to you for co-operation, assistance and advice. On this topic, however, I will not now enlarge.

The British settlements on the western coast of Africa are of very contracted limits, and possess consequently but little unoccupied land. Of these, however, it is enough, for the present purpose, to say that they are not Colonies to which emigration from this country could ever be directed.

British Guiana, Trinidad, St. Lucia, Grenada, Dominica, the Bahama and the Bermuda Islands, Mauritius, Ceylon, and the Cape of Good Hope, all possess Crown Lands of more or less extent, and might all yield some occasions for you to promote the general objects of your Commission. In Trinidad and Guiana, the vacant territory is both extensive and valuable. It is of great extent at the Cape of Good Hope, but for the most part sterile, and unfit for settlement. At Bermuda, the unoccupied land is chiefly a cedar forest, which is probably more valuable for ship-building, than to any other purpose to which it could be devoted.

Thus it appears that the Australian Colonies must be the principal field for your operations. Even here, however, it will probably be found that in Van Diemen's Land the great amount of available land has already been granted. But New Holland, and probably New Zealand, contain districts which it is not possible to exhaust by any rational scheme of colonization for a long course of years.

You are aware that an essential distinction prevails between the systems observed regarding the sales of land in South Australia and in the other British settlements in New Holland. The plan of selling at one uniform price per acre is established in South Australia, while in New South Wales and Western Australia, Government have sanctioned and adopted the plan of sales by auction, at an upset price, now fixed at 12s. per acre. On a comparison of these schemes on any perfectly new field of colonization, I should have no difficulty in preferring the South Australian principle. Should new settlements hereafter be formed in the northern or southern divisions of New South Wales, it might conveniently be established there, or in districts of Western Australia remote from the appropriated parts of that Colony, or in New Zealand. But to introduce the plan of selling at one uniform price in those parts of the Australian Colonies, within which the method of selling by auction has for many years prevailed, would be a change of great apparent difficulty. It would be regarded with strong aversion by the existing proprietors. If the price were uniform, it is obvious that many valuable tracts might be sold far below their value, and the land revenue thereby greatly injured; on the other hand, it is urged with reason, that sales by auction expose the emigrant to vexatious uncertainty, and even to frauds, of which one signal instance has been proved in a court of justice. The whole subject, however, is one which demands careful investigation; some change in our present course I believe to be necessary. I delegate the inquiry to you, and shall be prepared carefully to weigh the results of your deliberations on the subject.

In the mean time, however, and so long as the system of sales by auction shall last, it is obvious that those auctions must take place within the respective Colonies, and those alone; consequently the contracts which you can make will not be for the sale of any specific lands, nor even for the sale of any ascertained amount of land, but only for receiving any money which a capitalist or emigrant may be willing to pay, granting him a certificate of the payment to be accepted by the Colonial treasurer in reduction of the amount of any price which the depositor may bid within the Colony for any lands offered for sale there by public auction. The advantage of this arrangement, in enabling capitalists to defray the expense of removing emigrants, will be explained in the sequel; where I shall also have occasion to advert to the rules which you will observe respecting the receipt and expenditure of the money so to be deposited.

Third. The next general subject to be con-

sidered is that of the application of the proceeds of sales towards the removal of emigrants.

On this head I might, perhaps, content myself with a general reference to the instructions under which the agent-general for emigration has hitherto been acting. But as this is a matter of deep interest and importance, I think it best to convey to you such explanations as have been suggested to me by the results of the experiment in which that officer has been engaged. 1st. With regard to the manner of selecting and obtaining proper emigrants, it may be observed that two distinct methods have been pursued. The first is that of employing officers to travel through a particular district for the purpose. The second is that of establishing a resident local agency in different parts of the kingdom to enrol candidates for emigration, subject to the future approval of them.

The first method has the advantage of accumulating experience in the hands of one person, of securing a uniformity of action, and of affording the means of personal inspection by an officer of trust, and of inquiry by him in the applicant's own neighbourhood before any steps at all are taken towards their acceptance. The plan of filling ships from given districts has the further advantage, as is remarked in one of the recently printed reports from the agent general, of rendering it "more likely that the people should agree on the voyage, and more likely that the deserving amongst them should carry to their new homes a pride in sustaining the good character they have borne in this country." But times will occur when a transient interruption of the prosperity of some of the settlements, or an excessive competition amongst private parties to procure emigrants, may render it difficult to ensure a good complement for a ship from a single district; and this consideration has lately led the agent-general to contemplate the other course of using local agents. That course has the convenience of giving a wider field to choose from, from a greater command therefore over the assortment of the emigrants, and the means of having a large number of applicants enrolled at the same time, so as to be able with more confidence to form the shipping arrangements prospectively—a point of much importance, but attended with the hazard of great loss if the data on which they are based cannot be sufficiently ascertained. Between these different modes of proceeding, it will be for you to judge according to circumstances, using the one or the other, or blending the two, as you may find most compatible with effectiveness and economy.

The next subject for consideration is, from what particular class of persons the choice of emigrants will be most advantageously made.

There can be little doubt that, other circumstances being equal, the most desirable emigrants would be young married couples without children. Great anxiety is expressed on this subject in New South Wales; but it is found by experience, that, generally speaking, unencumbered people will not leave their country, and that the encumbered will; and further, that even when young couples without children have said that they will emigrate, they are the most apt to desert at the last moment, and to cause a loss to the Colony. Indeed, if the same migratory habits should spring up in the countries of Australia as prevail in those of America, it might be doubted how far it would be for the interest of each individual Colony to spend its funds in the introduction of that description of persons who would find it the easiest to wander; certainly it would not be for the interest of any Colony which enjoyed labour at a rate at all lower than its neighbours. For the present, however, it may be taken for granted, that the Commissioners should aim at sending out young people with few children, having always a due regard to other qualifications.

I have next to advert to a point of some practical difficulty. It respects the security which can best be taken against the inconvenience arising from the default of persons who have pledged themselves to embark in fulfilling that engagement. The chance of defaulters at the last moment is one necessary attendant of a system of carrying passengers who have paid nothing for their conveyance. To supply some remedy for it, a deposit of £1 has been taken in Ireland from each head of a family, or single adult who is accepted, returnable to him on reaching the Colony. In Scotland the extreme poverty of the Highland emigrants has hitherto prevented this expedient; and in England it has not been resorted to, because, as most of the emigrants are at any rate supplied with part of their outfit by aid from their unions, the extra £1 would come from the same source, and constitute no additional motive in the labourer's own mind to keep his engagement. You will consider whether any better rules can be given under this head than those which have been practically followed.

The mode of proceeding to hire ships for the voyage is another topic of much practical importance. The shipping may either be engaged, and all the supplies purchased by the public, as has been the practice hitherto under the agent-general, or contracts may be made with ship-owners to take out the passengers at a rate per head, as used to be done when the London Emigration Committee acted under the authority of this department, and as has since been practised by the South Australian Commissioners. Convicts are sent out by the Transport Department of the Admiralty under the former plan; troops are sent to India by the Company under the latter. It will be for the Commissioners to choose between the two; or if they think it expedient, to send some vessels on either plan upon trial, merely observing, in regard to those furnished by contract, that a strict check must be established, both upon the quality of the ship and also of the various provisions and stores for the use of the emigrants.

The medical care of the emigrants on the voyage is a matter requiring the most careful attention. It will be a difficult question how the office of surgeon-superintendent may be best provided for in such numerous vessels as may be expected to be required for all the Australian settlements. The agent-general has with propriety endeavoured gradually to introduce a proportion of private surgeons into the service, as surgeons of the navy can hardly be permanently obtained in sufficient numbers, and must also not unnaturally be a more ex-

pensive class of officers. It is evident, however, of how much value they are rendered by their previous experience and attainments, and it is possible that the Commissioners will always find it expedient to retain as many of them as the exigencies of their own service will enable the Board of Admiralty to spare for this purpose.

For the management of the people on board the emigrant ships, a code of instructions was prepared by the agent-general last year with much care and inquiry. As those rules have been adopted by the South Australian Commissioners, and by some of the largest private ship-owners; and as the accounts up to this time of every vessel which sailed since its establishment, so far as they have reached me, appear to be far more favourable than were ever received before, I see reason to hope that the Commissioners may find this code to provide for all material points; some modifications, however, will probably be requisite if any vessels are sent out upon contracts; as for instance, stricter directions than before to the surgeon-superintendent, vigilantly to control the sufficiency and quality of the issues to the people under his charge, and to note any defects.

I must also briefly advert to the proceedings to be adopted on the arrival of the emigrants at their place of destination. From that period a month's board and lodging in public barracks was, for some time, allowed by the Government of New South Wales, to emigrants in the Government vessels. It was in contemplation, at the date of the latest intelligence, to reduce the period to a fortnight, which I think would be enough in any ordinary circumstances. This must always remain, however, a point for the local authorities; and the proper course at home will be to appraise emigrants in the public ships, that either in barracks, or on board of their vessels, they will be sure of the option of a maintenance for not less than one week after arrival; but that any extension beyond that period must depend on circumstances at the time, and on the directions of the colonial government.

Every information on the disposal of the emigrants, the addresses of their employers, and the rates of wages given to them, should continue to be obtained as is the present practice, in returns to the office in this country.

In an earlier part of this communication, I adverted to the facilities which would be derived by emigrants or capitalists from the plan of depositing sums of money on certificates producible in discharge of an equal sum of money to be bid at future auctions within the Colony, where the lands are situate. It may therefore be desirable to explain, that the depositors of such money would have the advantage of the employment of it in the removal of emigrants of their own selection, subject to the approbation of the choice by yourselves. In effect, therefore, any man, or body of men, desirous of removing from this country a number of unemployed, but eligible labourers to lands in the Colonies, might accomplish that purpose, to a very great extent, by merely advancing the amount of the passage money, which would be repaid to them by an equivalent amount of land. There are, probably, large numbers of persons who, on these terms, would be willing to embark their property or their persons in such undertakings.

You are probably aware, that a question of considerable importance has, for a long time past, been much discussed in the correspondence between this office and the agent-general, and the Governor of New South Wales, relating to what is termed "The Bounty System"—that is, the system of paying from the Land Revenue bounties to persons, proportionate to the number of eligible emigrants whom they may introduce into the Colony from this country, the candidates for such bounties being entrusted with the selection of the emigrants, and with whatever relates to the management of the voyage. How far it may be right to continue this system at all, and, if continued, what may be the regulations under which it ought to be placed, and in what proportion the proceeds of the sales of lands available for emigration should be divided between the recipients of the bounty on the one hand, and the conductor of emigration on behalf of the public on the other hand, and how security can be most effectually taken to prevent the undue interference of the one plan with the other, these are all questions on which I am unwilling to express any final opinion, until I shall have received your report on them; but they are at the same time questions of so much importance, that your attention cannot be too soon, or too carefully, given to the right solution of them.

It remains to make some remarks on those Colonies which do not at present afford a revenue appropriated to the introduction of emigrants. To these the emigration which takes place is entirely voluntary, and subject to no other influence by any department of the Government, than from the diffusion of any information which it may appear expedient to publish, and the enforcement of any general rules which an Act of Parliament may supply for the regulation of passengers' ships. The Commissioners will find naval officers resident at the principal ports to perform the latter duty, over whom it will be the business of the Commissioners to exercise a general superintendence. The Act frequently proves much less effective than could be desired. The difficulty of dealing with this subject is to determine the line between, on the one hand, unduly encroaching on the liberty of individual action in persons desirous to emigrate, and also exacting so much as to raise the cost of passage to a prohibiting price, or, on the other hand, failing to afford that general protection which it is on every account proper that Her Majesty's subjects should receive from the public in embarking in large numbers for the Colonies.

An extensive body of notes for the amendment of the present statute has been collected in the office of the agent-general, which will of course receive your consideration.

Fourth. I pass to the last of the four general subjects which I have indicated, as coinciding with the division of your duties; namely, the rendering periodical accounts, both pecuniary and statistical, of your administration of this trust.

Respecting the financial branch of your duties, I purposely abstain from any remark, because this is a subject on which it will fall within the province of the Lords Commissioners of