

WRITINGS ON  
AUSTRALIA

V.

THIRD LETTER TO LORD PELHAM

JEREMY BENTHAM

edited by

TIM CAUSER AND PHILIP SCHOFIELD

The Bentham Project 2018

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Jeremy Bentham, *Writings on Australia, V. Third Letter to Lord Pelham*, ed. T. Causer and P. Schofield, pre-publication version, The Bentham Project, 2018.

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### *The Collected Works of Jeremy Bentham*

The new critical edition of the works and correspondence of Jeremy Bentham (1748–1832) is being prepared and published under the supervision of the Bentham Committee of University College London. Eight volumes of the new *Collected Works*, five of correspondence, and three of writings on jurisprudence, appeared between 1968 and 1981, published by Athlone Press. Further volumes in the series since then are published by Oxford University Press. In spite of Bentham's importance as a jurist, philosopher, and social scientist, and leader of the utilitarian reformers, the only previous edition of his works was a poorly edited and incomplete one brought out within a decade or so of his death. The overall plan and principles of this edition are set out in the General Preface to *The Correspondence of Jeremy Bentham*, vol. I (Athlone Press), which was the first volume of the *Collected Works* to be published.

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## EDITORIAL INTRODUCTION

‘Third Letter to Lord Pelham’,<sup>1</sup> which is published here for the first time, sees Bentham take for his subject the ‘*hulks* and the “*improved prisons*”’.<sup>2</sup> Disappointed at the government’s preference for these modes of punishment over the panopticon penitentiary, Bentham sought to demonstrate the failings of both in comparison to the panopticon, while being careful to maintain that New South Wales was inferior to both of them as an instrument of penal policy. In ‘Third Letter to Lord Pelham’ Bentham is especially sharp in his criticism of Pelham and his predecessor as Home Secretary the Duke of Portland<sup>3</sup> for their having, for instance, not only ignored the high mortality among the convicts aboard the Portsmouth hulks but, also in having actively contributed to the conditions leading to that mortality. Bentham was, moreover, highly critical of Pelham’s appointment of Aaron Graham as Inspector of Hulks,<sup>4</sup> which he regarded as an example of corrupt patronage, whereby the awful reality of the hulks would be obscured. In writing ‘Third Letter to Lord Pelham’, Bentham drew in particular upon information gleaned from the published works of, and correspondence and conversation with, the penal reformer and philanthropist James Neild.<sup>5</sup>

Bentham appears to have begun drafting ‘Third Letter to Lord Pelham’ in late November 1802, telling Charles Bunbury<sup>6</sup> in early December 1802 that, ‘A 3d letter [to Lord Pelham], of perhaps 16 or 18 pages, is reserved for the subject of the *hulks* and the “*improved prisons*.” By all together, the subject of *chronical* punishment in its several modifications, in use here and in America, will have received a pretty full discussion.’<sup>7</sup> Bentham was still drafting the work when, on 18 December 1802 he told Sir John

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<sup>1</sup> Thomas Pelham (1756–1826), second earl of Chichester, Chief Secretary for Ireland 1783–4, 1795–8, Secretary of State for Ireland 1796–7, Home Secretary 1801–3, Postmaster-General 1807–26.

<sup>2</sup> Bentham to Charles Bunbury, 7 December 1802, *Correspondence (CW)*, vii. 158.

<sup>3</sup> William Henry Cavendish Bentinck (1738–1809), third Duke of Portland, Home Secretary 1794–1801.

<sup>4</sup> Aaron Graham (c. 1753–1818), a stipendiary magistrate at Bow Street, was appointed, with a salary of £350 per annum, as Inspector on 25 March 1802, a post he held until his resignation at the end of 1814.

<sup>5</sup> James Neild (1744–1814).

<sup>6</sup> Sir Charles Thomas Bunbury (1740–1821), MP for Suffolk 1761–84, 1790–1812, had been an admirer of Bentham’s panopticon penitentiary scheme since 1791.

<sup>7</sup> Bentham to Bunbury, 7 December 1802, *Correspondence (CW)*, vii. 158–9.

Anderson<sup>8</sup> of the government's plan to throw the cost of supporting convicts upon the counties, including the City of London, rather than using 'the *general* Funds marked out for the purpose by Parliament', and that, 'So much of it as applies to this purpose will be printed in the 3d of three Letters to Ld Pelham'.<sup>9</sup>

In a letter dated 11 January 1803 to Charles Bunbury, Bentham alleged that Pelham had 'sunk entirely into the pocket' of John King, the Under Secretary at the Home Office,<sup>10</sup> and that it was King who was responsible for his friend Graham being appointed Inspector of the Hulks. Bentham, alluding to his own investigation into the prisons and hulks, suggested that there had never been 'a more decided determination to resist reformation from all quarters—to pocket abuse in all shapes. I speak from a variety of interesting facts which have flowed in upon me from different channels'. Bentham had a '3d letter (with vouchers) .^.^ nearly made out of all this: but the facts are so disgraceful even without the comments, that much more reserve must be observed in regard to the distribution of this, than the two preceding ones'.<sup>11</sup> However, Bentham appears to have abandoned any thought of printing or publishing 'Third Letter to Lord Pelham' by 12 May 1803, when the Reverend Dr Thomas Brownlow Forde, the ordinary of Newgate,<sup>12</sup> asked him whether or not it had yet been published.<sup>13</sup>

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The Bentham Committee wishes to thank the Arts and Humanities Research Council, whose generous grant has made possible the preparation and publication of this text as part of a project entitled *Convict Australia and Utilitarianism: Jeremy Bentham's 'Writings on Australia'*. The Bentham Committee is grateful to the British Academy and University

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<sup>8</sup> Sir John William Anderson (c. 1736–1813), was MP for London 1793–1806.

<sup>9</sup> Bentham to Anderson, 18 December 1802, *Correspondence (CW)*, vii. 164.

<sup>10</sup> John King (1759–1830), Under Secretary at the Home Office 1791–1806

<sup>11</sup> Bentham to Bunbury, 11 January 1803, *Correspondence (CW)*, vii. 187.

<sup>12</sup> Forde (c. 1744–1814) was ordinary of Newgate from 1798 until his death.

<sup>13</sup> See Forde to Bentham, 12 May 1803, *Correspondence (CW)*, vii. 226.

College London for their continuing support of *The Collected Works of Jeremy Bentham*.

Thanks are due to University College London Library's Special Collections for permission to publish material from its collection of the Bentham Papers.

No volume of Bentham's *Collected Works* is produced in isolation. We are grateful to Professor Margot Finn, the co-investigator on *Convict Australia and Utilitarianism*, for her support and advice. Our Bentham Project colleagues Dr Oliver Harris, Dr Michael Quinn, Dr Chris Riley, Dr Katy Roscoe, and Dr Louise Seaward have been a never-failing source of support, expertise, and encouragement, and we are grateful for the support of our colleagues in UCL's Faculty of Laws. Dr Roscoe has provided invaluable assistance in checking the text and in researching the annotation.

Grateful acknowledgment is hereby made to the authors, editors, and translators of standard reference works, such as the *Oxford Dictionary of National Biography*, the *Australian Dictionary of Biography*, and the *Loeb Classical Library*, and digital resources such as the *Old Bailey Online*, and the *Digital Panopticon*, without whose scholarship the annotation of a volume such as this would hardly be feasible.

Finally, we would like to warmly acknowledge the contributions of the volunteers of *Transcribe Bentham*, the award-winning crowdsourced transcription initiative launched in 2010 by the Bentham Project in collaboration with UCL Library Services, UCL Centre for Digital Humanities, UCL Digital Media Services, and the University of London Computer Centre. *Transcribe Bentham* has been generously funded by the AHRC, the Andrew W. Mellon Foundation, the European Commission's Seventh Framework and Horizon 2020 programmes, and UCL. We would like to place on record our sincere thanks to the following *Transcribe Bentham* volunteers, some of whose draft transcripts were taken as a starting point for putting together this particular text: Jan Copes; Naomi Fogerty; Diane Folan; Peter Hollis; Rob Magin; Olga Nunez-Miret; Raizadenise; Chris Riley; Lea Stern; and Keith Thompson.

The text presented below is a preliminary version, in that the authoritative version will appear as part of a complete edition of Bentham's *Writings on Australia* for *The Collected Works of Jeremy Bentham*, with a full Editorial Introduction, name and subject indices, finalized annotation, and working cross-references. The volume is due to be published in 2020 by the Clarendon Press.

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September 2018

## A NOTE ON THE PRESENTATION OF THE TEXT

Two versions of the ‘Third Letter to Lord Pelham’ exist: first, a draft, composed between late November 1802 and early January 1803; and second, a fair copy, none of the sheets for which are dated. Though he ultimately set aside the text, Bentham had sent at least a portion of the text to the printer, since there as there survives among Bentham’s papers two copies of the first six printed pages of the text, which Bentham had annotated and corrected.<sup>14</sup>

The text of ‘Third Letter to Lord Pelham’ presented here has been reconstructed entirely from Bentham’s manuscripts, and is based on the fair copy of the text, though collating it as appropriate with the printed pages and the manuscript draft. It has been editorial policy to reflect as far as possible the manuscript sources on which the text is based, but without sacrifice thereby of clarity and sense. Bentham’s spelling and capitalization have been retained in most instances, although editorial discretion has been more liberally exercised with regard to his punctuation, which is often inconsistent and sparse. Punctuation marks have been adjusted and supplied where clearly indicated by the sense, or required for the sake of clarity, but not in cases where this might involve a dubious interpretation of the meaning. The words and phrases underlined by Bentham for emphasis have been rendered in italics, as have all non-English words and phrases.

The manuscripts contain many additions (either interlinear or marginal), deletions, and emendations which represent Bentham’s later corrections to the text. The latest variant has usually been preferred, while original readings have not usually been indicated. Square brackets in the text are reserved for editorially inserted words, while Bentham’s original is, where appropriate, given in an editorial footnote. Bentham’s square brackets are replaced by braces. Round brackets are those supplied by Bentham. Bentham’s own notes are indicated by superscript letters. Editorial footnotes are indicated by superscript numerals.

The archival references of the original manuscripts on which the text is based appear on the left-hand side of the text, except where a folio begins mid-sentence, when they appear in the body of the text. The numerals [117-259], for instance, refer to box cxvii, folio 259 in the Bentham Papers, University College London Library Special Collections.

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<sup>14</sup> See UC cxvii. 261–2.



## SYMBOLS AND ABBREVIATIONS

### Symbols

- |^^^|      Space left in manuscript.  
[to]        Word(s) editorially supplied.  
[?]         Reading doubtful.  
[.^.^.?]    Word(s) proved illegible.

### Abbreviations

- Bowring    *The Works of Jeremy Bentham*, published under the superintendence of .^.^.  
              John Bowring, 11 vols., Edinburgh, 1843.
- CW         This edition of *The Collected Works of Jeremy Bentham*.
- MS orig.    Original manuscript reading.
- TNA        The National Archives of the United Kingdom, Kew.
- UC         Bentham Papers in University College London Library's Special Collections.  
              Roman numerals refer to boxes in which the papers are placed, Arabic to the  
              folios within each box.

NOTE TO TYPESETTER: Please begin new recto. For layout see p. 000 of the hard copy.

*THIRD LETTER*

TO

LORD PELHAM

*&c. &c. &c.*

*On the Hulks and the 'Improved' Prisons,*

IN CONTINUATION OF

THE COMPARATIVE VIEW

OF

THE SYSTEM OF PENAL COLONIZATION

IN NEW SOUTH WALES

AND THE

HOME PENITENTIARY SYSTEM,

*Prescribed by two Acts of Parliament of the Years 1794 & 1799<sup>15</sup>*

NOTE TO TYPESETTER: Text to run on.

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<sup>15</sup> The title is taken from the printed proof, consisting of six pages and containing the title, introduction, and section XV, at UC cxvii. 261: for further details see the Editorial Introduction, pp. 000 above. The Acts in question were the Penitentiary Act of 1794 and the Appropriation Act of 1799.

[117–254]

My Lord

My last concluded with a sort of half-promise:<sup>16</sup> I now proceed to the fulfillment of it, and with as much punctuality as if it had been a whole one. *Sir—you are too good .^^.* Not at all, my Lord; I will be judged by the Printer, who was the person I had in view. *Indeed, Sir?—and nobody else?—So you are not read, and it is upon this supposition that you write?* Something like it, my Lord. The reader I am sure of is the Printer: the reader I am not sure of is the gentleman, if there be such a one, who, on petty occasions like the present, has it in charge to read and think for Your Lordship, or at any rate to read.<sup>17</sup>

On the 19<sup>th</sup> of August indeed, Your Lordship’s own ‘mind’ was to have been ‘applied to the subject’—and that ‘*at all events*’. On the 19<sup>th</sup> of August Your Lordship’s own ‘endeavours’ were to have been employed to get something settled, and ‘settled before ‘the meeting of Parliament.’<sup>18</sup> Parliament met the 16<sup>th</sup> of November: this is the 18<sup>th</sup> of December: *magna otia cæli* all the time.<sup>19</sup> Yet if M<sup>r</sup> Secretary Vansittart is to be believed, Lord Pelham is the Atlas on whose shoulders the world rests, or at least this part of it.<sup>20</sup> Shaken off by these superior shoulders the best that can have happened to it is, that in its fall, it should have been caught by some subordinate ones.

[117–255] Already, before September was at an end, so teasing was the burr become, with all its lightness, that the time of completion was transferred, from that finite period to another infinite one. The time for ‘sending to’ the man was to be—not as at first before Parliament had met—but after three volumes not expecting any such reading ‘had been read’, and 13 personages not expecting any such conversation had been ‘conversed with’.<sup>21</sup>

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<sup>16</sup> See ‘Second Letter to Pelham’, p. 000 above.

<sup>17</sup> The ‘gentleman’ Bentham had in mind was John King, Under Secretary in the Home Office.

<sup>18</sup> See p. 000 above.

<sup>19</sup> See Juvenal, *Satires*, I. vi. 394: ‘[You must have] plenty of leisure in the sky.’

<sup>20</sup> See Vansittart to Bentham, 10 September 1801, *Correspondence (CW)*, vi. 446: ‘With respect to your Convict plan, I have not yet had an opportunity of consulting with Lord Pelham, on whose decision the business must principally turn’. According to Greek myth, after the Titans were defeated in their war with the Olympian gods, Atlas was condemned by Zeus to hold up the sky for eternity.

<sup>21</sup> In a letter of 30 September 1802, Bunbury informed Bentham that he had seen Pelham, and ‘desired he would send to you, and inform you what steps he intended to take in the Business of the Panopticon Prison:

This is what a Ryot in this country gets by presenting Nuzzeers to Omrahs!<sup>22</sup> The Great Mogul, my Lord, would not have served me so. ‘What can I say more?’<sup>23</sup>

After this explanation, confessing hibernianism, and calling in so much of fiction and inconsistency as may be necessary to my aid, I keep on making marks upon paper, just as if any such ‘exalted mind’<sup>24</sup> as Your Lordship’s were still to be applied to it: just as if any such things as reformation, economy, life, person, property, public faith, parliamentary authority, and so forth, were worth Your Lordship’s notice.

Insert short rule.

[117–256]

### *XV. Hulk system compared with Penitentiary and New South Wales systems.*

From the foregoing *demonstrations*—if such by courtesy at least they may be stiled—may be deduced, in the form of a *corollary*, a short estimate on the subject of the *Hulks*. In the scale of utility, the station of this system would be found, if my judgment does not deceive me, in the *midway* between that of *penitentiary* imprisonment taken without the benefit of the *panopticon* improvements, and that of *penal colonization* taken on the footing on which it stands in New South Wales. With the former it agrees, in respect of its purity from *drunkenness*, with the attendant miseries and mischiefs: with the latter, in respect of the *promiscuous aggregation*, with the universal corruption issuing from it. As a preventative of *present* mischief—of mischief considered as commissible under and during the punishment—it may rank not much below the Penitentiary system: it stands at a prodigious

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He said he would, as soon as he had read through your Books, and conversed with the chancellor, and the Judges on the Subject’: see *Correspondence (CW)*, vii. 137. The ‘13 personages’ were, therefore, the Lord Chancellor and the twelve Justices, and the ‘three volumes’ were ‘View of the Hard-Labour Bill’, ‘Panopticon: or, the Inspection-House’, and ‘Outline of a Work entitled Pauper Management Improved’. See also p. 000 n. above.

<sup>22</sup> In India, a raiyat was peasant or tenant farmer, a nazar was a present given by a social inferior to a superior, and an omrah was a grandee in a Muslim court, especially that of the Mughal Emperor.

<sup>23</sup> See Samuel Richardson, *Clarissa. or the History of a Young Lady*, 7 vols., London, 1748, iv. 110, vii. 92.

<sup>24</sup> See, for instance, John Milton, *Paradise Regained*, i. 206.

height above New South Wales. On the ground of *healthiness* (meaning physical healthiness) cleared as it is from drunkenness, it may again rank not much below the penitentiary system: on the ground of *moral health*, as a school of *post-liberation* wickedness, it stands scarce at all above the level of New South Wales. In the article of *comfort*, considering the miseries of forced and crowded [117–257] association, it can never come up to—it can never do otherwise than fall deplorably short of—a well-ordered Penitentiary House. In the article of *economy*, in one point of view it cannot but fall considerably short of it, since among a number of persons in that condition of life, and of those habits of mind and body, there will naturally be a considerable proportion unfit for such *outdoor*, and thence almost necessarily *heavy* work, as that which can alone be put into the hands of a body of men so *lodged*.<sup>a</sup>

<sup>a</sup> In 28<sup>th</sup> Finance Report Appendix (N. 7.) p. 114, in a Report relative to the Convicts stationed on board the Hulks at Langston and Portsmouth Harbours, during the year 1797, the concluding paragraph is in these terms: ‘A *great Number* of the Convicts on board the above Hulks *were rejected, as unfit to proceed to Botany Bay* at the several Transportations, and *many received from the Gaols* are so *emaciated by long Confinement* and Debility arising from former Debaucheries, that they are unable to work; to these add the Number necessarily employed in keeping the Ships and Wards clean, and they will amount to nearly *One Third* of the whole Number confined. *A.H. Dyne*.<sup>25</sup>

‘London 17<sup>th</sup> May 1798.’<sup>26</sup>

In the comparison of the Hulk system with the Penitentiary system, the most material point of all is—that the ground on which the former system approaches to the level of the latter, is that sort of ground, in which the interest of the *individual*—the delinquent prisoner, much more than any other and more *public* interest, is concerned: I mean the

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<sup>25</sup> Andrew Hawes Dyne, also known as Andrew Hawes Bradley, had taken over the contract for the management of the hulks at Portsmouth, following the death on 1 January 1797 of the previous contractor, his brother-in-law James Bradley.

<sup>26</sup> See ‘Twenty-Eighth Report from the Select Committee on Finance’, Appendix N. 7. (‘An Account of the Value of the Labour of the Convicts employed on Board of the Hulks at Langston and Portsmouth Harbours, during the Year 1797, so far as the same can be stated or estimated’), in *Commons Sessional Papers of the Eighteenth Century*, cxii. 114. All emphases in this and the following extracts are Bentham’s, unless otherwise noted.

absence of the means of *drunkenness*, in a situation, in which, except to the [117–258] drunkard himself, little mischief would be apt to result from drunkenness. The ground, on which it sinks to the level of New South Wales, is the ground which touches, and in the tenderest part, the interest of the whole community, into which the prisoners, after the expiration of their respective terms, are one after another continually let loose. It is in a state of matured corruption, exceeded by nothing but that of New South Wales, that they are thus discharged into that society, from which, in a state of less perfect corruption, they had, in consideration of that corruption, been expelled.

To facilitate the comparison, I well beg leave to submit<sup>27</sup> to Your Lordship a *Table*, in which the points of resemblance and contrast between the three systems, under some of the principal heads, are set down, side by side.

I. Penitentiary system	II. Hulk system	III. N.S. Wales system
1. Drunkenness, <i>none</i> .	1. Drunkenness, <i>none</i> .	1. Drunkenness, <i>universal</i> .
2. Association—with <i>one another</i> , select: with <i>strangers</i> , none.	2. Association—with <i>one another</i> , promiscuous: with <i>strangers</i> , none.	2. Association— <i>altogether promiscuous</i> : Convicts, one with another by thousands: with Soldiers and seamen, with each by hundreds.
3. To health, <i>supremely favourable</i> : by sobriety, cleanliness, and constancy of occupation; by mixture of light with heavy, indoor, with outdoor, work.	3. To health, <i>favourable</i> by sobriety: unfavourable by want of mixture of light with heavy work, and total want of occupation for such as are incapable of hard and outdoor work.	3. To health, <i>unfavourable</i> by drunkenness. To vitality, favourable notwithstanding, by the salubrity of the climate: setting aside experienced frequency and perpetual probability of <i>famine</i> on the spot, and <i>pestilence</i> during the passage.

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<sup>27</sup> Printed proof 'submit'.

<p>[117–259] 4. To comfort, for the same reasons as to health, <i>eminently favourable</i>; as also by security against uneasiness from quarrels and oppressions: saving always the salutary discomfort resulting from the necessary discipline.</p>	<p>4. To comfort, <i>eminently unfavourable</i>; by reason of the promiscuous aggregation in a crowded space: under exposure to uneasiness from quarrels and oppressions.</p>	<p>4. To comfort <i>supremely unfavourable</i>;—by the universal insecurity in respect of property; as well as in respect of uneasiness from quarrels and oppressions.</p>
<p>5. To reformation <i>eminently favourable</i>, in respect of the inviolable sobriety, the select aggregation, the constancy of occupation, and the subjection to inspection, more or less uninterrupted, according to the plan of architecture and management.</p>	<p>5. To reformation, <i>eminently unfavourable</i>, by reason of the promiscuous and unbounded association, and the ascendant naturally gained by the most corrupted characters.</p>	<p>5. To reformation, <i>supremely unfavourable</i>, by reason of the promiscuous and unbounded association, joined to much opportunity of sloth and to unbounded drunkenness.</p>
<p>6. To incapacitation for fresh offences <i>during</i> the penal term, <i>completely effectual</i>.</p>	<p>6. To incapacitation for fresh offences during the penal term, <i>effectual</i> for the most part.</p>	<p>6. In respect of offences during the penal term, rather <i>conducive</i> than <i>incapacitating</i>.</p>
<p>7. To prevention of fresh offences <i>after</i> the penal term, <i>eminently conducive</i>, in respect of example as well as reformation.</p>	<p>7. In respect of fresh offences after the penal term, <i>little preventive</i> in the way of <i>example</i>: rather <i>conducive</i> than preventive, by <i>corruption</i> instead of reformation.</p>	<p>7. In respect of fresh offence, after the penal term, altogether <i>unpreventive</i> in the way of <i>example</i>: <i>supremely conducive</i>, by consummate <i>corruption</i> instead of</p>

		reformation.
8. To economy, <i>supremely favourable</i> ; by constancy of profitable occupation, mixture of light with heavy work, almost unlimited choice of the most profitable work, and greater or less facility of <i>inspection</i> .	8. To economy, <i>imperfectly favourable</i> ; by want of light work, for the weakly, and to mix with heavy work.	8. To economy, <i>supremely adverse</i> ; by the presence of every cause of expence, and the absence of every source of profit and frugality.

[117–260] In this view, my Lord, Your Lordship (I am inclined to<sup>28</sup> think) will see some<sup>29</sup> ground for the opinion, that—(setting aside in the case of New South Wales the incompleat security grounded on the *illegal* part of the punishment, a security which, according to the latest accounts, is in a way to be much weakened, if not given up—and of which the degree, in respect of the number of returners, depends in a great degree upon unforeseeable and uncontrollable contingencies) the Hulks, pernicious as they are, are at any rate a *less* pernicious receptacle for convicts than New South Wales: and that, if the manufacturers of *grounds for relinquishment*<sup>30</sup> could have been supposed for a moment to have considered themselves as responsible to God or man for the composition of their list, or for the system of conduct grounded on it, a more substantial ground might have been made out of the unimproved and unimprovable Hulks, than out of the so much improved and ever alike-improving Colony.

[116–605]

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<sup>28</sup> MS ‘am to’. The text follows the printed proof.

<sup>29</sup> Printed proof ‘more’.

<sup>30</sup> See p. 000 & n. above.



## XVI. *Penitentiary system in England—Improved local prisons.*

So much having been said of what has been done in this way in foreign countries,<sup>31</sup> the omission might well seem a strange one, were nothing said of what has already been done in this way here at home.

On this subject however it would be in vain for me to attempt to speak with any distinctness and that for various reasons.

In the first place, I know not to which of the existing prisons the denomination may be applicable, nor what the number of them may amount to in the whole. In England, Wales included,<sup>b</sup> total number of prisons nearer three hundred than two: prisons improved upon the penitentiary plan, between half a dozen, I should suppose, and a dozen. Your Lordship knows precisely: or at any time may know, from those connoisseurs in prisons, who are as much at home in ‘improved prisons’ as they are in ‘improved Colonies.’<sup>c</sup>

<sup>b</sup> Number of those visited by Howard 257. Howard on Prison. 3<sup>d</sup> Edit. 1784. p. 486.

Table XII.<sup>32</sup>

<sup>c</sup> Note giving the account from Neild.<sup>33</sup>

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<sup>31</sup> See the accounts of the penitentiaries in Philadelphia and New York in ‘Second Letter to Pelham’, pp. 000 above.

<sup>32</sup> See Howard, *State of the Prisons*, ‘Table XII. An Account of the Number of Prisoners in the Gaols and Prisons of England and Wales, at the Time they were visited in 1779, and 1782’, pp. 486–92. Bentham appears to have arrived at his figure of 257 from adding 243 different prisons visited by Howard during his tours of 1779 and 1782, to a first visit to the Woolwich hulks and a second visit to thirteen London prisons in 1783.

<sup>33</sup> The note has not been identified, and may not have been written. By ‘improved prisons’, Bentham perhaps alludes to such local prisons as were constructed following the passage of the Gaols Act of 1784, and which were designed by or embodied the principles of William Blackburn, who had won a competition with a design, now lost, for the national penitentiary for male prisoners authorized by the Penitentiary Act of 1779. Though his building was never realized, Blackburn came to be recognized as the leading contemporary authority on prison architecture.

In a letter of 23 December 1802 to James Neild (1744–1814), penal reformer and philanthropist, Bentham asked ‘to be informed of the number of prisons throughout England and Wales that have been rebuilt or received improvements according to the ideas of Blackburn or my old friend [John] Howard’, and, inclosing a copy of ‘Letter to Pelham’ and promising him a copy of ‘Second Letter to Pelham’ when it had been

2. In the next place, it is only in here and there an instance that the accounts would be accessible to me: and were they even all before me, to speak of all would require a work of itself; to dwell upon one or two only, might be a sort of injustice to the rest.

To all these 'improved' prisons, in what other respects soever improved or supposed to be improved, one feature of improvement belongs in common—*increase of enclosed space*. In each instance, this [116–606] increase has had one or more of three objects:—prevention of disease—affording working room—affording means of separation for Convicts of different descriptions: sequestration in various degrees of perfection, up to the pinnacle of penal luxury—total solitude.

Space for prevention of disease is a most indisputable improvement, wherever necessary, but an improvement that has no particular reference to penitentiary discipline. Of this salutary discipline, space for separation, space for working, may be stated as the two characteristic features, so far as architecture is concerned.

In the increase of space for separation, reformation, or rather non-increase of corruption, was the object aimed at. This object will have been compassed in a greater or less degree of perfection according to the sufficiency of the architectural means, and the use made of them in the management. As far as my opportunities of observation extended—and the enquiry was once an object to me—one great obstacle to this end appears to apply in common, and with scarce any exception that I could observe, to all these prisons: I mean the want of compleatness in the plan of separation. What matters it whether there be certain times of the day in which the raw are debarred from getting instruction from the reprobate, if there are others in which they are brought together? In the department of wholesome [116–607] instruction, is a school the less a school because the boys are not always in the school room?

Separation however, even though carried to the length of solitude, is not of itself sufficient for reformation. To reformation, *occupation* is necessary: occupation, profitable or at least innocent, to fill up the mind with useful ideas or at least innocent ones, and by

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printed, remarked that 'the press waits for the number of improved prisons', presumably for insertion here. In his response of 27 December 1802, Neild provided Bentham with a list of prisons that he had visited since July 1802, stating that twenty of them were 'something on the Blackburn Plan'. See *Correspondence (CW)*, vii. 169–70, 177–8.

that repletion to exclude mischievous ones.

Inclosed space, for whatever purpose, is not to be had without expence. To pay for that expence, if work be proposed to be done, it is necessary not only that work shall be done, but done in such quantity and such quality, as to equal the expence. It is in this way that the interests of *reformation* and those of *economy* are intimately blended and connected. Work of some sort or other, profitable or not profitable in point of *economy*, is necessary for *reformation*. But the less the expence of reformation, the less it will be grudged.

Grudged?—says a voice somewhere—whether Your Lordship’s or whose else I am unable to distinguish—out of all habits as I am with great men—*Grudged!* however (says the voice and in a tone of displeasure—) *and what then?*—*as if where reformation is at stake, expence would be grudged by any body:* as if in such a case the grudging of the money, *if it were grudged, ought to stop the issue of it!* For corruption, no my Lord: [116–608] for that object £46 a year per head<sup>34</sup> has never been thought too great in Your Lordship’s Office, any more than in the office underneath.<sup>35</sup> I mean so long as improved Colonies have been the scene. But *reformation* is another thing. As to the *ought* and the *ought not*, these are *speculative* points and may be left to *speculatists*. The *fact* is, that money for this purpose is grudged, and to such a degree grudged, as to prevent the issue of it. If such be the fact, and (Your Lordship a little farther on will see it is)<sup>36</sup> in the most opulent of all opulent Counties, what may it be expected to be in the rest?

Grudged or not grudged, another fact is, it must be confessed, that in some instances, many more than I should have thought, the money looked upon as necessary for this purpose has been issued and prisons built accordingly: viz: these improved prisons.<sup>d</sup>

<sup>d</sup> Put Table from Neild.<sup>37</sup>

Improved prisons built, and what has been the result? In respect of reformation,

<sup>34</sup> i.e. the annual expense per head in 1797 for convicts transported to New South Wales: see p. 000 above.

<sup>35</sup> i.e. the Home Office and the Treasury respectively.

<sup>36</sup> See p. 000 below.

<sup>37</sup> Bentham perhaps intended to present in tabular form the information provided to him by James Neild in his letter of 27 December 1802: see p. 000 n. above.

separation over-done, over-done in some instances to the degree of absolute solitude: in all of them, or at least almost all of them, the influence of that solitude at the same time disturbed at least, if not utterly destroyed, by regularly recurring associations.

In respect of economy, £1,000 a year perpetual rent, and for that £1,000 a year £500 neat profit (neat in other respects) produced.<sup>38</sup> Neat loss £50 per cent of the rent: and to produce this loss—that is to reduce [116–609] the loss to this scantling, such exertions and such talents as it would be presumptuous to count upon in any future instance: at any rate in the general run of future instances. Had equal talents with equal exertions been employed upon a larger scale, instead of speeches,<sup>39</sup> the National debt I am inclined to think would not have weighed quite so heavy as it does.<sup>40</sup> Such has been the effect of ‘*improved prisons*’ under Blackburn architecture.

I knew the man, my Lord. Raw in the business, fame sent me to him for instruction: I was in treaty with him for Ireland. *Sir* (says he) if *I work this thing for you, ordinary percentage will not pay me: let there be one building upon this principle, there will be an end of mine.*<sup>41</sup> The substance, my Lord; most exactly: almost the very words. The man was an artful man:—but this came out from him unawares. He was a great professor of economy: but his economy consisted in doing useless things at a cheap rate.<sup>42</sup>

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<sup>38</sup> Bentham may have found this information in the work referred to at p. 000 n. below, but of which no copy has been traced.

<sup>39</sup> i.e. the financial talents, exertions, and speeches of Pitt.

<sup>40</sup> According to ‘Return of Amount of National Debt, 1691–1858’, *Commons Sessional Papers* (1857–8), xxxiii. 38–9, as of 31 December 1802 the funded debt of Great Britain and Ireland was £522,231,786, while the unfunded debt was £15,421,222.

<sup>41</sup> In a letter of 23 January 1791 Bentham told Pitt that Blackburn, who had died in November 1790, ‘was, under my direction, to have had the construction of the building, if the Irish Government had thought fit to accede to the extra demand he made for lending himself to the execution of a plan, which he foresaw and reluctantly and unwittingly, though very pointedly, acknowledged would turn his own into waste paper’: see *Correspondence* (CW), iv. 223–4.

<sup>42</sup> In the margin, Bentham has noted at this point: ‘Note about Adams spoiling the plan:—the cheapness the reason of its not being adopted by Architects:—Alexander’s fraud.’

The ‘plan’ in question was of course the panopticon plan, which had been ‘spoiled’ by the architect James Adam (1732–94). It had been James Adam’s brother, the architect Robert Adam (1728–92), who in 1791 had won the competition for the new Edinburgh bridewell with a panopticon-style design. Robert Adam died on 3 March 1792, and James Adam took over the building of the bridewell. Samuel Bentham, in a letter of 14 July

Neither by talents nor by exertions can the nature of things be changed: It is a position I have had occasion to make good elsewhere,<sup>e</sup> that *cæteris paribus* the neat productiveness of any branch of *profit-seeking* industry will be as the largeness of the scale on which it is conducted .

<sup>e</sup> Papers intituled *Pauper-management improved*, in Young's *Annals*, A<sup>o</sup> 1797: Chap. III. *Buildings and Ground*.<sup>43</sup>

[116–610] In all *receptacles* without exception (the demonstration is a strict one, and comes within the province of mathematics—yes, my Lord, even ‘*of arithmetic and its calculations*’)<sup>44</sup> the greater the space contained, the less the proportion of matter required for the containing of that space. By the same powerful cause, the effect is influenced in a variety of other ways: amongst others, by diminution of the *number* and *expence* of *inspecting eyes*. If this be true of all such concerns in general, it will be more particularly true in proportion as reluctance, or unpractised awkwardness, prevail among the working hands.

Among the variety of rocks on any one of which M<sup>r</sup> Pitt's ever memorable Poor

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1792, having been visited by Adam on the previous day, informed Thomas Bruce (1766–1841), seventh Earl of Elgin and eleventh Earl of Kincardine, Minister in Brussels 1792–4, Minister to Prussia 1795–9, Ambassador to the Ottoman Empire 1799–1803, that owing to Adam's modifications, ‘The Panopticon idea has been if not actually spoiled by him, I hope, but at least very much impaired’: see *Correspondence (CW)*, iv. 372–3 n.

For Bentham's description of the economy of his plan of construction for the panopticon prison, which includes some comments on the expense of Blackburn's plan, see ‘Panopticon; or, the Inspection House’, ii. 228–40 (Bowring, iv. 118–21).

Alexander of Abonuteichos was a contemporary of the Greek writer Lucian (*b. c.* 120), author of *Alexander or the False Prophet*. Alexander claimed that Asclepius, the Greek god of healing, had taken the bodily form of a snake called Glycon, of whom Alexander was the prophet, and whose oracles formed the basis of an extensive cult.

<sup>43</sup> i.e. ‘Outline of a work entitled, Pauper Management Improved’, Book II, Chapter III. Buildings and Land, in *Annals of Agriculture*, vol. xxx (1798), 111–36 (reproduced in *Writings on the Poor Laws: II (CW)*, pp. 500–14).

<sup>44</sup> See ‘Letter to Pelham’, p. 000 & n. above.

plan<sup>45</sup> would have split, was that of the *smallness of the scale*.<sup>46</sup> Not certainly of the *tout ensemble*—that was as large as it could be—but of each component establishment, as distinguished by a separate mass of building and a separate set of officers. Had the scale been as large as that of the average of the existing Suffolk Industry Houses, the estimated expence for the [116–611]

Table begins. The figures should appear on the right hand side of the page. The relevant text should appear to the left, and, where it consists of more than one line, should be connected to the relevant figure by a curly brace. For the layout see the hard copy, p. 000.

whole of South Britain would have been	£10,275,250
D <sup>o</sup> upon the proposed Panopticon plan and scale	£ <sup>^</sup> 2,357,000
Waste being the amount of difference—waste though altogether blameless and unpreventible	£ <sup>^</sup> 7,918,250 <sup>47</sup>

End of Table.

Two thousand to a house was the number upon the Panopticon plan and scale: two hundred in round numbers upon the Suffolk scale: but upon M<sup>f</sup> Pitt’s plan they would have been of all manner of smaller sizes. The eight million—the amount of the waste upon that single article—would have been frugality, in comparison of the waste aimed at by M<sup>f</sup>

<sup>45</sup> See ‘Letter to Pelham’, p. 000 & n. above.

<sup>46</sup> In ‘Pauper Management Improved’, Bentham noted that the ‘the greatness of the expence and the smallness of the produce in the existing Poor Houses, Industry Houses included’ was owing to the ‘smallness of the scale’ of the buildings and, therefore, the number of inmates which they could accommodate and to the concomitant difficulty of finding profitable employment for the inmates by which the running costs of the institutions might be defrayed: see *Writings on the Poor Laws: II (CW)*, pp. 344, 346, 348, 354.

<sup>47</sup> In ‘Outline of a work, entitled Pauper Management Improved’, *Annals of Agriculture*, vol. xxx (1798), 134, reproduced in *Writings on the Poor Laws: II (CW)*, p. 512 & n., Bentham gives the expence of ‘*Industry Houses*, exclusive of the strong-ward yards’ for South Britain ‘upon the *Suffolk plan and scale*, 4111*l.* 2*s.* by 2500 [inmates]’ as £10,275,250 (*recte* £10,277,750); the expence of ‘building for South Britain, upon the proposed plan and scale, 9428*l.* by 250’ as £2,357,000; and the ‘Saving on the *proposed plan and scale*’ as £7,918,250 (*recte* £7,920,750).

Pitt.—

This upon main buildings alone.

Table begins. The figures should appear on the right hand side of the page. The relevant text should appear to the left, and, where it consists of more than one line, should be connected to the relevant figure by a curly brace. For the layout see the hard copy, p. 000.

	£
Total of the estimated part of the expence upon this plan, Main buildings, Airing grounds, and Official establishment together—	
Annual amount of official establishments (to match with the other expences) reduced to capital, viz. at 20 years' purchase	22,459,561 <sup>48</sup>
Deduct expence of d <sup>o</sup> on the Panopticon scale and plan	6,022,000 <sup>49</sup>
Remains for the amount of waste on this part of the aggregate of expence upon this plan, frugal as it would have been in comparison of M <sup>r</sup> Pitt's	16,437,561 <sup>50</sup>

End of Table.

In round numbers, sixteen millions and a half out of two-and-twenty millions and a

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<sup>48</sup> This figure is Bentham's estimate of the sum total projected cost (excluding the shillings and pence), for the whole of South Britain upon the Suffolk scale, consisting of the cost of the industry house buildings (£10,275,250), the working and airing yards (£521,666 13s. 4d.), and the salaries of the official establishment for twenty years (£583,131 5s. x 20): see 'Outline of a work entitled, Pauper Management Improved', *Annals of Agriculture*, xxx (1798), 132–4, reproduced in *Writings on the Poor Laws: II (CW)*, pp. 511–12 & n.

<sup>49</sup> This figure is Bentham's estimate of the sum total projected cost, for the whole of South Britain upon the panopticon scale, consisting of the industry house buildings (£2,357,000), the working and airing yards (£165,000), and salaries for the official establishment for twenty years (£175,000 x 20): see 'Outline of a work entitled, Pauper Management Improved', *Annals of Agriculture*, xxx (1798), 132–4, reproduced in *Writings on the Poor Laws: II (CW)*, pp. 511–12 & n.

<sup>50</sup> Recte £16,437,541 13s. 4d., correcting Bentham's slight miscalculation of the total expense upon the Suffolk scale.

half, the waste by having ten establishments instead of one.

[116–612] Wasteful as this Poor-house plan of M<sup>r</sup> Pitt’s would have been, in comparison of the Suffolk Poor-house plan, itself wasteful in comparison of the Panopticon poor-house plan, the first official plan for covering the country with microscopical poor-houses would have been frugal in comparison of a second official plan, for covering it with microscopical penitentiary houses.

Upon the scale of ten establishments instead of one, the expence (your Lordship sees) is about mid-way between three times and four times as much as it need be:—to keep clear of exaggeration, say but three times:—waste £2 out of £3. But, upon this second official plan, there would be 257<sup>51</sup> instead of one: 257 such local penitentiary houses, instead of the one national one prescribed by Parliament: prescribed by Parliament seriously, and afterwards bespoke of me in sport, as fish are hooked, by the late Treasury and the Duke of Portland.<sup>f</sup> Two hundred and fifty-seven [116–613] penitentiary establishments instead of one: say for round numbers, only 250. If then an excess to the amount of 10 houses instead of one, makes the expence three times as much as it need be, how many times as much as it need be will 240 instead of one make the expence?— Answer, seventy-two times as much:—for the ratio of 240 to one is 24 times as great as the ratio of ten to one:—24 times 3 is 72.

<sup>f</sup> [116–612] M<sup>r</sup> Secretary Long to M<sup>r</sup> Bentham—Copy.

‘Treasury Chambers 25 March 1800.<sup>52</sup>

‘Sir

‘Having laid before the Lords Commissioners of his Majesty’s Treasury a letter from the Duke of Portland, relative to the number of Convicts which the Panopticon proposed to be erected by you is intended to accommodate, I have received their Lordship’s commands to acquaint you that the proposed building of a *Panopticon* is to be calculated to accommodate *Two Thousand* persons. I am &c.’

This was in answer to a letter of mine, written more than 7 months before: viz: on the 17<sup>th</sup> of August 1799: asking of M<sup>r</sup> Long the number I was to build for, for the

<sup>51</sup> For this figure see p. 000 n. above.

<sup>52</sup> This letter is reproduced in *Correspondence (CW)*, vi. 279.



therein declared purpose of my making preparations accordingly.<sup>53</sup>

But the quantity of needless expence in *poor-house* architecture, upon the current plan and scale, taking the Suffolk Industry Houses for the standard, is but small in comparison of what it is in *prison* architecture, taking Cold Bath Fields Prison for the standard: for of that Penitentiary House the expence was found to be about 20 times as great per head,<sup>g</sup> (little more or less—say for round numbers 21 times as great per head)—as in the proposed Panopticon Penitentiary House:—21 times instead of 3 times. This being assumed, the quantity of needless expence in prison architecture on the plan of [116–614] 240 penitentiary houses instead of one will, instead of 72 times, be 7 times 72 times, that is 504 times, as great as it need be.

<sup>g</sup> [116–613] The calculation was grounded on the most particular information that could be obtained from the most authentic sources. It is at Your Lordship’s command at any time.<sup>54</sup>

*And do you mean seriously, Sir, to make me believe, or to make any body believe, or do you yourself believe, that according to any plan of mine or any predecessor of mine, an expence 504 times as great as that of your proposed penitentiary house—aye, or a half or a quarter or a tenth part of that expence will be, or in any case would have been incurred?*—Most certainly not, my Lord. Of any such expence I do not take upon me to say, that it was so much as intended: though of that plan which approaches much nearer to it than of any other example which the history of public waste affords, the execution was most indubitably intended.<sup>55</sup> Far therefore be it from me my Lord to undertake to maintain that the execution of any such plan was ever so much as *intended*: all I can pretend to say is, that the intention of bringing about the execution of a plan of that sort was *professed*: and, for saying so, my warrant, the only warrant I pretend to have for saying so, will presently be in readiness to meet Your Lordship’s eye.<sup>56</sup> <sup>h</sup>

<sup>h</sup> [116–604<sup>r</sup>1] It [is] in the way of *reformation* (*reformation* as contradistinguished

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<sup>53</sup> See *ibid.* 188–9.

<sup>54</sup> Bentham may have found this information in the work referred to at p. 000 n. below, but of which no copy has been traced.

<sup>55</sup> i.e. Pitt’s scheme, for which see p. 000 n. above.

<sup>56</sup> Presumably in ‘Picture of the Treasury’.

from *example*) that these County penitentiary houses bid fairest for being serviceable. On the ground of mere separation, indeed, I have already stated why it is that but little would be to be expected from them: the good which of itself it might be capable of doing, if steadily persevered in, being in a manner obliterated by the promiscuous associations with which it alternates.<sup>57</sup> It is to the *occupation* afforded that the greatest share seems due in the production of whatever degree of reformation may have been the actual result. Minds are by this means more or less diverted from those mischievous topics of conversation which in a state of idleness would be the sole resource. In the Philadelphia penitentiary-house, even without the benefit of the central inspection principle, and under a plan of separation widely different from solitude, a very considerable and salutary check appears to have been applied to the exercise of the faculty of speech and by that means to the abuse of it.<sup>58</sup>

It is under the head of *example* that the effects of the penitentiary discipline in these local penitentiary houses appears most difficult to investigate and appreciate. Under this head, appearances are likely to be more favourable than realities. Upon the face of the accounts, judging from the number of convictions as between period and period, a very considerable decrease in the number of convictions within that jurisdiction may have taken place without a defalcation to that same amount—without a defalcation to any amount produced in the aggregate of crimes for the kingdom at large by that same cause. Why?—because without any decrease in the *number* of crimes, the scene of them may have been changed. The persons deterred may be been deterred—not from committing crimes, but from committing crimes within the precincts of a county in which so unpleasant a mode of spending time may be the result.

[116–604<sup>r2</sup>] It is among the observations made by the intelligent professors and practitioners in moral therapeutics in Philadelphia, that among those to whose eyes the prospect of imprisonment under the penitentiary form includes every thing that is most terrible, the prospect of imprisonment in the ordinary form is a matter of comparative

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<sup>57</sup> See p. 000 above.

<sup>58</sup> According to Liancourt, *Prisons of Philadelphia*, p. 19, Walnut Street's male prisoners did not work in solitary cells, but 'under the mutual inspection of each other, and there are seldom more than five or six [prisoners] in one work-shop'. Prisoners were forbidden from engaging in long conversations, but were 'allowed to ask assistance of each other, and to speak on the subject of their mutual wants; but not otherwise'. They were forbidden from shouting and from talking about the reasons for their detention, and when they took their meals together 'the same silence' was 'prescribed'.

indifference.<sup>59</sup> In the unimproved prisons the loss of the liberty of loco-motion is almost made up for by the absence of labour, joined to the constant opportunity of congenial conversation, sweetened by the occasional enjoyment of the means of drunkenness.

On the ground of reformation, the publication of Mr Neild,<sup>a</sup> just fallen into my hands,<sup>60</sup> affords a comparison not quite so much to the advantage of England as could be wished. In Philadelphia, back sliders not more than 5 in 100 in the course of 5 years,<sup>61</sup> even including the pardoned, on whom the discipline with its benefits had not been tried. From Dorchester, in 14 years ending with 1801, out of 393 of both sexes, 242 only stated as being ‘reclaimed’.<sup>b</sup> This if the whole remainder were supposed to be unreclaimed would give more than 39 in the hundred backsliders. Five in the hundred in 5 years is in each year one: 39 in 14 years is in each year almost 3. ‘*Found reclaimed*’ however is the word: and it can scarcely be supposed but that some may have been really reclaimed without having been *found* to be so: death or change of place might be alike productive of this effect. Want of agreement in respect of the number of years, takes from the commensurability of the two cases. The comparative view thus given of them is not so accurate as it might be: but to render it so would require more words than would be paid for by the result. In this English account, this persevering zeal which could not only institute but keep on foot so troublesome a course of investigation and the candour that laid the result before the public eye are alike conspicuous. Of the difference as between the English discipline and the Philadelphia in respect of the felicity of the result, no cause more probable upon the face of it can, it should seem, be assigned, than the alternation of promiscuous association with seclusion in the one case, contrasted with the unremitting exertions made in the other case to keep inviolate such degree of separation as the architecture of the prison, unaided by the central-inspection principle, admitted of.

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<sup>59</sup> Bentham perhaps had in mind Liancourt’s account of the ‘two prisoners’ who ‘preferred to be judged according to the ancient law, rather than be subjected to so long and rigorous a detention’ mentioned in ‘Second Letter to Pelham’, p. 000 above.

<sup>60</sup> In a letter of 23 December 1802, Bentham informed Neild that on a recent visit to Charles Bunbury’s house, he had ‘found on his table your interesting book on prisons, which he said you had presented him with’: see *Correspondence (CW)*, vii. 168.

<sup>61</sup> See ‘Second Letter to Pelham’, p. 000 above.

<sup>a</sup> *Account of the Society for the Discharge of small debts, 1802.*<sup>62</sup>

<sup>b</sup> Neild, 98.

[116–615] Even as to the eventual amount of the expence, intended or not intended, that the *rule of three*, as above employed, should, without any further data be correctly sufficient, is more than I would undertake to answer for: I would not haggle for a few millions:<sup>i</sup> no, my Lord, nor for a few dozen millions. A point I can speak to with more confidence, is—that the talents which gave birth to that determination, or at any rate to the professions made of it, are the very same which the public is every day experiencing the benefit of under Your Lordship’s auspices.<sup>63</sup> and if the check which Your Lordship is thus fortunate enough to possess, for the correction of any error that may have unintentionally attached itself to so unavoidably rough an estimate—if so powerful a security against misrepresentation be not yet sufficient, I would beg leave to refer Your Lordship to the still more resplendent talents of the late official sub-professor of political economy, whose share in the glories of M<sup>r</sup> Pitt’s poor plan is without dispute, and who on all agreeable occasions is so fond of ‘arithmetic and its calculations’.<sup>64</sup> Industry houses upon the gallypot scale [116–616] and Penitentiary Houses upon d<sup>o</sup> are so identical in principle, that (even without adverting to the vicinity between the first and the second floors of the same edifice)<sup>65</sup> a man may without much apprehension of error venture to state them as coming out of the same shop.

<sup>i</sup> In prison architecture, Blackburn’s plan for Battersea Rise would perhaps not have been more than about 15 times as much as the Panopticon plan, instead of the [116–616] 20 or 21 times as much as in the case of Cold Bath Fields.<sup>66</sup> Cold Bath Fields

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<sup>62</sup> See James Neild, *An Account of the rise, progress, and present state, of the society for the discharge and relief of persons imprisoned for small debts throughout England and Wales*, London, 1802, p. 98: ‘Upon an enquiry made into the characters of all the Dorsetshire prisoners, on charges of felony, during a period of fourteen years, it appears, that out of 393 of both sexes, there have been found 242 reclaimed, maintaining themselves by honest industry.’

<sup>63</sup> i.e. Charles Long.

<sup>64</sup> i.e. George Rose.

<sup>65</sup> An allusion to the Treasury and the Home Office respectively, who shared the Treasury Building in Whitehall.

<sup>66</sup> Bentham may have been basing his estimate of the cost of Coldbath Fields prison from information in the work referred to at p. 000 n. below, but of which no copy has been traced.

proved bad ground: Battersea Rise was excellent ground. But Cold Bath Fields is up and finished: and the case of Battersea Rise affords neither finish nor commencement, nor any thing but estimate.

Upon the principles I have thus ventured to point to in the improved prisons in question, present or future, one drawback from the goodness of the economy—one great drawback and [that]<sup>67</sup> an unavoidable one—is the *smallness of the scale*.<sup>68</sup> Another is the *shortness of the term* which, in those receptacles for petty offenders, the improved hands have to learn the business in, and afford a compensation, for the time and materials consumed without profit, during the season of primæval awkwardness.<sup>69</sup>

Under these disadvantages, together with that which results from the difference between the wages of labour, as compared with the expence of maintenance, here and in America, I should not [116–617] expect to find it within the compass of human ability, though devoted exclusively to the service, to bring the improved English prisons in question upon a level in point of economy with that of Philadelphia. It is not without surprize that in some instances within my reach, Dorsetshire in particular (Oxfordshire I have but an indistinct recollection of), I have observed in how meritorious a degree these obstacles have been overcome.<sup>70</sup>

In these home instances the grand misfortune is, that in regard to the main object—

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<sup>67</sup> MS ‘than’.

<sup>68</sup> See p. 000 & n. above.

<sup>69</sup> Cf. ‘Panopticon; or, the Inspection House’, i. 104–5 (Bowring, iv. 59), where Bentham notes that, in the case of remand prisoners who had no means of paying for their subsistence, ‘the point then will be, to provide some sort of work for such, who not having trades of their own which they can work at, are yet willing to take work, if they can get it. If to find such work might be difficult, even in a house of correction, on account of the shortness of the time which there may be for learning work, for the same reason it should be still more difficult in a prison appropriated to safe custody before conviction, at least in cases where, as it will sometimes happen, the commitment precedes the trial but a few days.’

<sup>70</sup> In the margin, Bentham has noted at this point: ‘Account of earnings from Neild.’ According to Neild, *Account of the Society for the Discharge and Relief of Persons Imprisoned for Small Debts*, p. 98, debtors at Dorchester Gaol worked at hat-making, shoemaking, tailoring, carding, and spinning, with half of the profit going to the debtor, a sixth part to the gaoler ‘to encourage his attention’, and the remainder going to the County, which ‘defrays a considerable proportion of the expences of the prison’. In his accounts of Oxford Castle and Oxford city gaols, Neild (*ibid.*, pp. 233–5) does not describe the work of prisoners.

the object with reference to which *example* and *reformation* themselves are but as means to an *end*—I mean the *decrease of crimes*—circumstances do not admit of their affording any such satisfactory proofs of efficacy as in the more favourable situation of the Philadelphia prison may be and have been afforded:—why?—because the *good* effects of the discipline of these *good* Jails are to such a degree drowned in the *bad* effects of the surrounding *bad* ones. In Pennsylvania too and in New York, the whole system of penal justice is invigorated by the abolition of capital punishment as above:<sup>71</sup> while in England the debility resulting from the opposite excess (by *debility* I mean the relaxation that pervades the whole system of procedure) is such as cannot be compensated in any ascertainable degree by the utmost efficacy of such local and partial improvements.

[116–618] Would Your Lordship have supposed it?—It is upon the very merits—the acknowledged or at any rate the alledged merits, of the Penitentiary system, in these its less perfect forms, that the hostility to it in its more perfect form has grounded itself. So well has the system succeeded in this and that *County*, that for that very reason there is to be none for *England*: so well has it succeeded upon a *small scale*, that it is not to be suffered to shew itself upon a *large scale*:—so well have the existing prisons succeeded at an *enormous* rate of *expence*, that for that very reason a still better prison is not to be suffered to be built at a *tenth*, a *fifteenth* or a *twentieth* part of that expence. So peremptory was the determination to cover the country with <sup>|^|^|</sup>prisons *unthought of by Parliament*, that it is for that very reason it was determined not to have the *one* prison, that had so long ago and so repeatedly been *prescribed by Parliament*.

The conclusion made by the patrons and organizers of the most improved of all these improved prisons has been somewhat different. Yes, my Lord: It is among the most distinguished of its rivals, that the Panopticon plan has ever found the most cordial of its well-wishers—the most generous of its supporters.

[116–619] Persons who (one might almost venture to affirm) never saw the inside of

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<sup>71</sup> In Pennsylvania, capital punishment had been abolished for all crimes, with the exception of first degree murder, by the Abolition of the Death Penalty Act of 1794 (see *Pennsylvania Statutes at Large*, xv. 174–81), and in the state of New York for all felonies, with the exception of treason and murder, by the Criminal Law and Prisons Act of 1796 (see *Laws of the State of New-York, comprising the Constitution, and the Acts of the Legislature, since the Revolution, from the First to the Twentieth Session, Inclusive*, 3 vols., New York, 1797, iii. 291–8).

a prison in their lives—persons by much too high to have ever bestowed upon any such low object any thing that [can]<sup>72</sup> be called a *thought*—persons who are as much at home in ‘improved’ prisons as they are in ‘improved’ colonies—it is by such lovers of improvements, and by the lovers of such improvements, that the penitentiary system in its most improved form has been consigned to ‘*relinquishment*’, and the authority that prescribed it to contempt.<sup>73</sup>

It was not my original intention, my Lord, to have attempted giving Your Lordship on the present occasion any trouble on the subject of the *official letter*, to which the plan thus alluded to has been consigned: but, having gone thus far, it is become necessary for me, I fear, to transcribe a part of it at least, on pain of seeing the above statement exposed to the suspicion of being groundless, and perhaps to the charge of being unintelligible. The letter then to which the determination in question, or at any rate the expression of it, was consigned, bears date the 14<sup>th</sup> of October 1799: Signature that of the Duke of Portland,<sup>74</sup> at that time filling the high office Your [116–620] Lordship adorns at present.<sup>75</sup> It is in answer to a letter to his Grace from the Treasury dated the 27<sup>th</sup> of the preceding month ‘desiring to be apprized of the number of Convicts which the Panopticon .^.^ is intended to accommodate’:<sup>76</sup> and is the letter that constituted or at least helped to constitute the ground of the just-quoted Treasury letter, written 5 months and 8 days after the letter it was thus grounded upon,<sup>77</sup> and some time (but I do not exactly know how long) *after the determination had been taken by Most Noble and Right Honourable persons, that no such*

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<sup>72</sup> MS ‘call’.

<sup>73</sup> The statement concerning the ‘relinquishment’ of the panopticon penitentiary scheme appeared in the Minute of the meeting of the Lords Commissioners of the Treasury of 13 August 1800, *Commons Sessional Papers* (1801), cxviii. 79–80: see p. 000 & n. above.

<sup>74</sup> i.e. Portland to the Lords Commissioners of the Treasury, 14 October 1799, reproduced in *Correspondence* (CW), vi. 261 n.: see p. 000 & n. above.

<sup>75</sup> i.e. the office of Home Secretary.

<sup>76</sup> i.e. Charles Long to John King, 27 September 1799, a copy of which, docketed by Bentham, is at BL Add. MS 33,543 fo. 131.

<sup>77</sup> i.e. the letter from Charles Long dated 25 March 1800 (in fact 5 months and 11 days after Portland’s letter to the Treasury), in which Bentham was informed that the Treasury had determined that the panopticon was to accommodate 2,000 persons: see *Correspondence* (CW), vi. 279, and p. 000 above.

*building as it thus called upon me to make preparations for, should be erected.*<sup>78</sup>

After stating, in regard to the object of the Act in question (the Act of 1794 for the erection of the Panopticon Penitentiary House, requiring as well as ‘*authorizing*’ such House or Houses to be erected) that he ‘*understands the object of it*’ and that that object is—as to ‘*transportable convicts*’, ‘that such Penitentiary Houses should be used .^.^.^ as receptacles for such transportable convicts as the several Gaols of the respective Counties can *not* contain’ {and therefore for none that they can contain} ‘from the time of their receiving sentence till an opportunity may offer for their [116–621] ‘being transported’: {and therefore none but those who, as soon as ever such opportunity arrives, are to be transported.} It is after understanding this, that his Grace proceeds to the ‘*other*’ class of Convicts mentioned in the Act as intended by it to be consigned to such Penitentiary Houses, viz: all besides transportable ones, and of these he says as follows—

‘I incline to think it would be very inexpedient to remove such persons from the Country Gaols, unless the *crowded* state of those Gaols should render it *absolutely necessary*: for it would naturally tend, not only to check that *spirit of improvement* which now so *universally*<sup>j</sup> prevails in the several Counties, in respect of those Gaols, but would be the means of the Gaols themselves being *neglected*; by which means the greater part of the *prisoners* who are or hereafter may be confined in them would necessarily be sent to the *Panopticon*, where the *expence attending their custody must be borne by Government*,<sup>k</sup> instead of being defrayed by the respective *Counties*.<sup>l</sup>

<sup>j</sup> So universally?—how universally? For an answer see further on p. [^^^].

<sup>k</sup> {*by Government*} i:e: in the manner intended and prescribed by Parliament: viz: borne by the whole body of his Majesty’s subjects, in the proportions adapted by Parliament to their respective faculties.

<sup>l</sup> {defrayed .^.^.^ by the Counties} i:e: defrayed by an already [116–622] overloaded part of his Majesty’s subjects—the contributors to the Poor-Rates:—defrayed in the mode which it was the intention of Parliament to supersede—an intention declared by the provision made for transferring the burthen from the County Fund to the General National Fund, as above. Extracts from the Penitentiary Contract Act, the Act made for this single purpose, 7<sup>th</sup> July 1794, 34 G. 3. c. 84. § 1. ‘Whereas .^.^ it will be of

<sup>78</sup> In the margin, Bentham has noted at this point: ‘[.^.^.]’



great public utility that a Penitentiary House or Penitentiary Houses should be built for the particular purpose of confining transportable and *other* Convicts .^.^.^ the Commissioners of the Treasury .^.^.^ are hereby *required*, as soon after the passing of this Act as conveniently may be .^.^.^ to contract .^.^.^ for the erecting one or more Penitentiary House or Houses.

ib. § 2. ‘All expences attending the execution of this Act shall be defrayed in such manner as shall be agreed .^.^.^ in such Contract:<sup>79</sup> or in case the same shall not be so agreed upon, then the same .^.^.^ shall be defrayed by .^.^.^ the Commissioners of the Treasury .^.^.^ and .^.^.^ laid before, and annually provided for by Parliament , or otherwise as Parliament shall direct.’

Extract from the General Appropriation Act, 12<sup>th</sup> July 1799, 39. G. 3. c. 114. § [22].<sup>80</sup>  
After the general enacting and appropriate words, ‘And any sum or sums of money not exceeding thirty six thousand Pounds to be paid to Jeremy Bentham Esquire, for the purchase of Ground for erecting a Penitentiary House for the custody and employment of Convicts and towards the expence of erecting such Penitentiary House and the said sum be issued and paid without any fee or deduction whatsoever.’

[116–623<sup>r1</sup>] Such (Your Lordship sees) is the treatment which Your Lordship’s office gives to an Act of Parliament, when Noble Lords have ‘*examined and understood the object of it*’. The declared object and the sole object of this Act, is to cause a Penitentiary House or Houses one or more to be erected for the whole kingdom, for applying the Penitentiary discipline to Convicts of all descriptions. This not meeting the views of the Duke of Portland, principles are laid down by him, according to which no Convicts of any one description whatever are ever to be put into it, except in a case which is never to take place. Not a Convict is to be sent out of any one Gaol till it has been crowded to the verge of ‘absolute necessity’, and this is an event that is never to take place, because, before it does take place, the bare apprehension of it is to cause a roomier Gaol to be built. Parliament has one plan about these people: the Duke of Portland has another. Understanding the object of Parliament, he makes no secret of his ‘inclination’ to do by it what, having power so to do, he has done by it—to defeat it. Defeat the object of an Act of Parliament?—why?—because, according to the Duke of Portland, it would be very inexpedient to pursue it. It would defeat the more expedient plan which this servant of the

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<sup>79</sup> Original ‘Contract or Contracts;’.

<sup>80</sup> MS ‘2’.

Crown has formed for the disposal of the persons in question, in spite of Parliament, viz: ‘crowd’ the jails with them: those very Jails in [116–623<sup>2</sup>] which Parliament had, by the other of the two Acts of which he so well understands the object, declared in express terms they should not be put, but in those limited numbers which it specifies:<sup>m</sup>—[116–624<sup>1</sup>] those very Jails, in which (as his Grace had been informed but the Year before by the official Report above quoted)<sup>n</sup> the Convicts, even without the benefit of any such ‘crowding’ as he consigns them to, and for terms longer than the legal terms, are ‘*emaciated* many’ of them by ‘*long confinement*’ and that to such a degree as to be ‘unable to work’ as well as ‘unfit to proceed to Botany Bay’, and on that account ‘rejected’.

<sup>m</sup> 19 G. 3. c. 74. § 26. ‘In the mean time, and until such certificate shall be made as aforesaid {§ 24 certifying the National Penitentiary Houses in question to be ready}<sup>81</sup> it shall be lawful *for the Court .^.^.* to order and adjudge such offenders, *not exceeding the numbers hereinbefore respectively limited* {§ 25}<sup>82</sup> to be imprisoned and kept to hard labour, *for the several terms aforesaid,*<sup>83</sup> in the respective Houses of Correction or other proper Places, within each respective County; which Houses of Correction, or other proper Places, shall, *during such time*, be deemed and esteemed Penitentiary Houses, to all Intents and Purposes, within the Meaning of this Act, except only with regard to the Appointment of Officers and Servants, and other interior Regulations of such Houses directed by this Act: and when such Certificate shall be made as aforesaid, the offenders then imprisoned in such Houses of Correction, or other Places, by virtue of this Act *shall be transferred to such new*

<sup>81</sup> The Penitentiary Act of 1779, § 24, provided for appointment by the Privy Council of a superintending committee, which was to ‘certify .^.^ to the Justices of the Court of *King’s Bench*, that such Houses are so fitted and completed’ and ready to receive convicts.

<sup>82</sup> The Penitentiary Act of 1779, § 25, provided that no more than two convicts might be sent each year to the proposed penitentiary houses by the Great Sessions held in the four circuits of Chester and Wales, no more than four from any one session of Oyer and Terminer, and Gaol Delivery for the City of London, no more than nine from Middlesex, no more than eight from the Northern Circuits, no more than twelve from the Oxford Circuits, no more than twelve from the Western Circuits, and no more than sixteen from the Home Circuits.

<sup>83</sup> The Penitentiary Act of 1779, § 24, provided that courts might, in lieu of transportation, order that persons convicted of petty larceny be imprisoned with hard labour in a penitentiary house for any term not exceeding two years, men sentenced to seven years’ transportation for a crime other than petty larceny might be so imprisoned for between a year a five years and women for between six months and five years, and persons sentenced to fourteen years’ transportation might be imprisoned for between two and seven years.

*erected Penitentiary Houses*, for the residue of the several Terms during which they were ordered and adjudged to be imprisoned.’ Thus far the Act.

The Terms during which the Convicts may be kept to hard labour in these local Gaols are succedaneous terms, *shorter* than the transportation terms {§ 24}:<sup>84</sup> the *numbers* of the Convicts which may be so kept in them are carefully *limited* {§ 25.}: the authority by which they may be thus ordered and adjudged to be kept is that of the *Court* only—‘the Court in which they shall be convicted or any other Court held for the same place’ {§ 26}. Thus saith the law:—and it is under colour of *this* law, declaring himself to ‘have examined’ it (though it was nothing to the purpose) and professing to ‘understand’ it, that the Duke, by his own sole and sovereign authority in spite of Law, keeps Convicts in these same local Gaols, for *terms equal* to their transportation; [116–624<sup>r2</sup>] terms in *numbers* altogether *unlimited*, and in the declared view of ‘*crowding*’ these receptacles to the verge of ‘*absolute necessity*’, for the purpose of preventing them from being ‘neglected’; forcing ‘the respective Counties to defray the expences attending the custody’ of these illegally obtruded inmates for the express reason, because, if this servant of the Crown, this single Lord of Parliament, were not of his own sole authority thus to impose this tax upon the already overloaded parts of his Majesty’s subjects, these ‘expences must’ (as he phrases it) ‘be borne by Government’: i:e: borne by the whole body of his Majesty’s subjects—borne by the fund best able to bear them—borne by the fund assigned by Parliament.

<sup>n</sup> supra p. [^^^].<sup>85</sup>

Such (Your Lordship sees) was his Grace’s plan:—He was to ‘crowd’ the ‘Country Gaols’; crowd them with Convicts forbidden by Parliament to be put there; crowd them till they were crowded to such a degree that the crowded state of them should have rendered the uncrowding of them ‘absolutely necessary’: and it is by this alternate crowding and uncrowding of the existing Gaols, that somebody else—any body else that chose to be put at the [116–624<sup>r2</sup>] expence, was to be forced to erect bigger ones. What in this case is the abuse, the cure of which constitutes that ‘*improvement*’, the ‘spirit’ of which his Grace is thus anxious to encourage? It is the crowded state of the existing Gaols. What is the course taken by his Grace for the cure of this abuse?—the crowding them still more. The person whose duty it is to put an end to the grievance, and who could put an end to it if he would,

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<sup>84</sup> MS ‘2’. The text follows the draft at UC cxvi. 558 (20 December 1802).

<sup>85</sup> See A.H. Dyne’s report at p. 000 n. above.

determines to increase it, that those who cannot be forced, and will not be forced, may *thus* be forced to remove it.<sup>o</sup>

<sup>o</sup> [116–625<sup>1</sup>] That this plan of the Duke of Portland's for crowding Gaols and taxing Counties was not in every point of view a new one, appears from a Memorial presented by the Middlesex Justices to his Grace about 16 Months before, on the subject of the State Prisoners committed to Cold Bath Fields. The Memorial is printed at length in the '*Papers presented to the House of Commons relative to his Majesty's Prison in Cold Bath Fields*'. Ordered to be printed 18 Dec<sup>r</sup> 1800. pp. 78, 79.<sup>86</sup>

'His Majesty's Justices of the Peace for the County of Middlesex .^.^ do .^.^ humbly entreat Your Grace to take into consideration the *difficulties* under which they labour; which are yet farther *encreased* by the *addition of* so great a number of *Prisoners* of the above description {State Prisoners} *to those whom the House of Correction was originally intended to receive*, and with which it is *crowded to a great degree of inconvenience* .^.^.

'They also beg leave to observe, that *a very great additional expence* has been incurred, on account of Prisoners of the above description; *which expenditure, as the various Burthens upon the County Rate, are already very severely felt*, they are deeply concerned to be under the necessity of adding to the ordinary Charges of the Prison; but this Expence *the Magistrates confidently hope will be reimbursed to the County*, on a fair statement of the several Particulars'.

From the so often mentioned posterior letter of his Grace's, which I have had the honour to bring to light, information in no small degree interesting may now be derived by these same Magistrates. In May 1798 they complain of the '*crowding*' of their Gaol with Prisoners not *intended* for it, speak of inconvenience, assume (as was but natural) that the inconvenience was, as such, unintentional on the part of the Duke, and, in mentioning it in that character, conceive that the consideration thus submitted to that Noble person will,<sup>87</sup> in the character of a motive, give birth in his Grace's mind to a determination to grant the relief they pray for. Little did they expect to see the day, and that so early a one, in which, by a document [116–625<sup>2</sup>] under the Noble Duke's own signature, the '*crowding*' plan would prove to be a plan adopted

<sup>86</sup> See 'Papers Presented to the House of Commons, relating to His Majesty's Prison in Cold Bath Fields', *Commons Sessional Papers* (1800) cxxxii. 78–9.

<sup>87</sup> MS 'person's will'. The text follows the draft at UC cxvi. 560 (3 January [1803]).

deliberately by his Grace, for a special purpose, to afford a pretence for the design of defeating the object of two Acts of Parliament;<sup>88</sup> and that the inconvenience—an inconvenience which it was now determined to multiply and spread over all the Counties, was a result directly in the contemplation of his Grace, produced by him, or at least professed to be intended to be produced, on purpose, as a means of effecting or giving colour to that plan of his for setting himself above Parliament.

The ‘*expençe*’ is another subject of their complaint. They represent it as being ‘*very severely felt*’; and, so persuaded are they of the injustice of the proceeding by which it is thrown upon their County, that they are ‘*confident*’ in their hopes of having it *reimbursed*—reimbursed, to wit, *by Government*. They may now see that this expence, that sat<sup>89</sup> so heavy upon them—the casual expence resulting from the temporary maintenance of a few State Prisoners, was but a feather in comparison of the load—the double load—so soon after destined for their backs by the same potentate: the expence of maintaining Convicts of all sorts, instead of their being maintained from the funds prescribed by Parliament, and the expence of providing another Jail or two under the pressure of the ‘*crowding*’ produced by his Grace for this very purpose: the first, an annual expence, and according to his Grace’s plan, a perpetual one: the other, an expence in the shape of money paid once for all—of capital advanced: say, to begin with, some £60,000, to £80,000 more,<sup>90</sup> in addition to the cost of this new established Gaol, over-crowded already to the degree of which they complain thus heavily. Little did they suspect, that an expence which to their feelings was every thing, was as nothing in the conception of this arbiter of their fate: that in the same proportion in which, in their estimate, it was increased, it was reduced in the estimation of this Chancellor Extraordinary of the Exchequer, by whom a burthen is considered as annihilated when it is thrown upon a wrong fund.

The line of *conduct* pursued in the two cases is one thing: the *legality* of it in the two cases is another. In the particular case which gave birth to this complaint, the hardship at any rate is evident enough. How in that case the matter stood in point of *right*, it would be altogether beside the present purpose to enquire. His Grace had certainly at that time no such object as that which he found about sixteen months after—that of defeating the object of two Acts of Parliament.

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<sup>88</sup> i.e. the Penitentiary Acts of 1779 and 1794.

<sup>89</sup> MS ‘set’. The text follows the draft at UC cxvi. 561 (3 January [1803]).

<sup>90</sup> Bentham may have been basing his estimate of the cost of Coldbath Fields prison on information in the work referred to at p. 000 n. below, but of which no copy has been traced.

And now, my Lord, without any original intention<sup>91</sup> on my part, Your Lordship has seen, as it were by a side glance and at an earlier period than I had proposed, the fourth and last of the four grounds of relinquishment, of the three first of which my first Letter presents a birds' eye view.<sup>92</sup> To do any thing like compleat justice to it would be too wide a digression from the present purpose.

Instead of these four grounds of relinquishment, for which the only apology, if they admitted of any, would be that they were never intended to transpire,<sup>93</sup> ousted of all these transparencies, would it not have been more manly, my Lord, and quite as safe, to have sent for some friend to the measure, Sir Charles Bunbury for example, and given him at once a good practical substantial reason, true or false, such as a gentleman could understand?—*You see, Sir Charles, this thing can't go on, Lord such a one is against it: we have passed our words to him, His Stewards [116–626<sup>1</sup>] indeed, and such people say it would be a very good thing for him:<sup>94</sup> but, Sir, they know nothing at all about the matter. He says they<sup>95</sup> don't.* Had this been otherwise than satisfactory, could it ever have been less so than the sum total of these four grounds, or forty such grounds, put together?

This (Your Lordship knows, or may know at any time, whether there be any thing like truth in it) would at any rate have been frank and open: but policy, the very profundity of policy, was the order of the day with his Grace.

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<sup>91</sup> MS [^^^]. The text follows the draft at UC cxvi. 563 (n.d.)

<sup>92</sup> Bentham is alluding to the fact that the 'Letters to Lord Pelham', containing his comments on the fourth ground for the scaling down or relinquishment of the panopticon penitentiary scheme, namely 'the improved State of the Colony of New South Wales', had been sent to Pelham before his comments on the first three grounds, namely lapse of time, increase of terms, and improvements in the existing gaols (see 'First Letter', p. 000 n. above), all of which had been listed in the Minute of the meeting of the Lords Commissioners of the Treasury of 13 August 1800 (see p. 000 & n. above), and furthermore before 'A Picture of the Treasury' as a whole. For further details of the relationship between 'Letters to Lord Pelham' and 'A Picture of the Treasury' see the Editorial Introduction, pp. 000 above.

<sup>93</sup> Bentham seems to be suggesting that Long had never intended that the Treasury Minute of 13 August 1800 should be made public. See, for instance, Bentham's comment in relation to the Minute in 'Picture of the Treasury' at UC cxxi. 270 (18 February 1802): 'M<sup>r</sup> Long, as far as he was concerned, had been as careful that I should know nothing of my own destiny, as thus written in the books, as he had been to see it written there'.

<sup>94</sup> See 'History', p. 000 n. above.

<sup>95</sup> MS 'the'. The text follows the draft at UC cxvi. 563 (n.d.)

A plot like this! a plot for getting prisons built by stratagem!—a plot for helping a thing on by stopping it! In this or any other country—in the regions even of imagination, wide as they are, is there any thing like a parallel to it to be found? Let us try, my Lord.

After this at least, who shall say that, among the robbers that render walking unsafe and the burglars that render sleep unquiet, there may not be patriots in disgrace, who, uniting<sup>96</sup> the self-devotion of a *Curtius*<sup>97</sup> to the policy of a *Machiavel*,<sup>98</sup> are emulating all the while in their humble sphere, this brilliant emanation of official wisdom—this deep-laid plan of the Duke?—this deep-laid plan of the Duke slipt upon and thereby acted upon, with or without dreams about causes and consequences, by his Grace’s Noble Successor? Such (they may be saying to themselves) is ‘the spirit of improvement which now so universally prevails’ among [116–626<sup>2</sup>] his Majesty’s Ministers in the Police department in respect not of Gaols only but of instruments of all kinds in the apparatus for the prevention of crimes—such is the energy with which the Duke of Portland determined to ‘crowd the Country Gaols’ for fear of ‘their being neglected’.<sup>99</sup>—Such is the energy with which Lord Pelham has forced a fifth hundred a year into the hands of the Police Magistrates.<sup>100</sup> Such is the energy with which, at the price of £87. 10<sup>s</sup> a peep, he has determined that four peeps in a year shall be taken at the Hulks<sup>101</sup>—such is the ‘spirit of improvement’ manifested by these congenial and combined exertions that, unless a few patriots like ourselves were to help ‘crowd’ the streets with robbers and the houses with burglars, this ‘*spirit of improvement*’ among these hitherto zealous and spirited improvers might be ‘*checked*’ and all these their implements of improvement—super-pensioned Magistrates—Quarterly peepers at Hulks—and even ‘*crowded Gaols*

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<sup>96</sup> MS ‘waiting’. The text follows the draft at UC cxvi. 565 (n.d.)

<sup>97</sup> According to legend, when a chasm opened in the Roman Forum in 362 BC, the soothsayers declared that it could only be closed by throwing in Rome’s greatest treasure. Marcus Curtius, believing that nothing was more valuable than a brave citizen, appeared fully-armed on horseback and jumped into the abyss, which closed behind him. See Livy (Titus Livius), *Ab urbe condita*, VII. vi. 1–6.

<sup>98</sup> The name of Niccolò Machiavelli (1469–1527), philosopher, politician, and diplomat, was associated with the use of intrigue and deception with a view to seizing and maintaining political power.

<sup>99</sup> See p. 000 above.

<sup>100</sup> The Metropolitan Police Magistrates Act of 1802 (42 Geo. III, c. 76, § 9) increased the annual salaries of the justices of the peace attached to the London police offices from £400 to £500.

<sup>101</sup> Bentham divides the annual salary of £350 paid to the Inspector of Hulks, appointed under the Hulks Acts of 1802, by four, representing the quarterly reports he was required to submit to Parliament.

*themselves*' might come to be '*neglected*'. To a plain understanding, could this ideal plan of these ideal Machiavels have been more directly repugnant to the decrease of crimes than the real plan of the real Machiavels to the diminution of the mischief and miseries<sup>102</sup> of prisons?—Are not support and opposition—plain dealing and deceit—truth and falsehood—right and wrong—merit and guilt—confounded and if possible rendered indistinguishable by such plans?

Had any of the professional men just spoken of professed this to be their object, would they have [116–627<sup>1</sup>] been less sincere in such their profession, than the Duke of Portland would have been, had he done what he has not done—condescended so much as to profess any such disposition as that of promoting the object of the Act? I mean, my Lord, the Act which was calling upon him, as it continues calling upon Your Lordship, not for obstruction, but for obedience—the Act his Grace has so well '*examined and understood the object of*'—the Act for the establishment of that Penitentiary House, which it was the object of this Letter of his to uncrowd of as many inhabitants as had been designed for it by that Act.

It is in pursuance of this plan, my Lord, that a little more than five months after, viz: on the 25<sup>th</sup> of March 1800, the Treasury, on the ground of a preparatory Letter therein spoken of as received from his Grace, wrote<sup>103</sup> to me to acquaint me that the '*proposed building of a Panopticon was to be calculated to accommodate 2000 persons*'.<sup>104</sup> This, by way of answer to an humble address of mine, written on the 17<sup>th</sup> of August more than *seven* months before, in the declared view of my making preparations of an expensive nature, and begging to know for what number they were to be made.<sup>105</sup> Faithful to this same plan, while I was amusing myself with these preparations, together with other occupations which the same policy had provided for me,<sup>106</sup> the Noble and Right Honourable and Honourable Conspirators (if, by a mere figure of speech, a consultation

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<sup>102</sup> MS [^^^]. The text follows the draft at UC cxvi. 565 (n.d.)

<sup>103</sup> MS 'write'. The text follows the draft at UC cxvi. 566 (n.d.)

<sup>104</sup> See Long to Bentham, 25 March 1801, *Correspondence (CW)*, vi. 279. The 'preparatory Letter' was that of Portland to the Lords Commissioners of the Treasury, 14 October 1799, *ibid.* 261 n. See also p. 000 & n. above.

<sup>105</sup> See Bentham to Long, 17 August 1799, *Correspondence (CW)*, vi. 188–9.

<sup>106</sup> Bentham presumably had in mind his protracted negotiations for the purchase of the Salisbury Estate at Millbank.



amongst potentates about crushing worms may be thus characterized) from that time to the 18<sup>th</sup> of March 1801 conversing on the subject in confidential whispers [116–627<sup>r2</sup>] between floor and floor: consulting with one another by what words they should make Parliament believe that I had insisted on an increase of terms, spite of all I could say to the contrary: reiterating to one another the reciprocal assurances of that persevering fondness for ‘*improved prisons*’ as well as ‘*improved Colonies*’, the expression of which was so unexpectedly brought to light, Your Lordship and his Grace knows how.<sup>107</sup>

In the Panopticon system Your Lordship has been seeing a *plan*, which, because sanctioned once and again by Parliament, prescribed by an Act,<sup>108</sup> confirmed four years after in another Act, confirmed by £36,000 granted towards the execution of it,<sup>109</sup> and by £14,000 public money actually expended in it,<sup>110</sup> and, if his Grace’s will be done, wasted upon it, was termed a ‘*project*’, and under that name of unfounded reprobation marked out for ‘*relinquishment*’.<sup>111</sup> Would to God his Grace’s more successful *plan*—for emaciating his Majesty’s subjects by ‘long confinement’ in illegally and purposely crowded Jails, for producing Jail-Fevers in them or whatever other miseries might be the result of their being ‘crowded’ each of them in the degree necessary to prevent it from being ‘neglected’<sup>112</sup>—for exercising over his fellow subjects, by the secret will of this servant of the Crown out of sight of his royal master, that authority which, if attempted to be exercised by the

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<sup>107</sup> See Long to King, 25 August 1800, and King to Long, 17 March 1801, discussing the reasons for either scaling down or relinquishing the panopticon penitentiary, including ‘the various Improvements which have since taken place in the different Gaols in this Kingdom’ and ‘the improved State of the Colony of New South Wales, in *Commons Sessional Papers* (1801), cxviii. 79–81. King’s letter of 17 March 1801 was read at the meeting of the Treasury Board on 18 March 1801, giving rise to Long’s letter to Bentham of 24 March 1801.

<sup>108</sup> i.e. the Penitentiary Act of 1794.

<sup>109</sup> i.e. by the Appropriation Act of 1799, which was passed, of course, five years after the Act of 1794.

<sup>110</sup> In June 1794 a grant of £2,000 had been made to Bentham to make preparations for the panopticon, and in November 1799 the Millbank estate had been purchased from the Marquis of Salisbury for £12,000.

<sup>111</sup> See King to Long, 17 March 1801, *Correspondence (CW)*, vi. 382 n.: ‘his Grace concurs in opinion with their Lordships, that the plan, if adopted at all, should be carried into execution to a limited extent, only by way of experiment; but whether it will be right to relinquish the project altogether, and allow a liberal compensation to Mr. Bentham, for any loss he may have sustained, is a point which must be determined by their Lordships’.

<sup>112</sup> See Portland to the Lords Commissioners of the Treasury, 14 October 1799, *Correspondence (CW)*, vi. 261 n., and p. 000 above.

master, a Hampden would have resisted with his blood<sup>113</sup>—would to God a plan like this, my Lord, had been but a *project!* Would to God that any considerations whatever, divine or human, religious or moral, of police or economy, of [116–628<sup>r1</sup>] justice or mercy, or of constitutional obedience or of individual good faith, could have prevailed upon his Grace, or could prevail now upon his Noble successor, to consign such a plan to ‘*relinquishment*’—to that relinquishment, to which he found it more convenient to consign the Parliamentary ‘*project*’ in which, but for him, all these mischiefs would have found a cure!

On the 11<sup>th</sup> of this instant December, in the prison belonging to the City of London—in Newgate alone, besides Debtors 211, and persons committed for trial for Felony 198, Convicts 318: of whom convicted for Transportation 283, and of them only 31 convicted in the last Session: such is the statement I have just copied from a memorandum taken by Sir Charles Bunbury.<sup>114</sup> Supposing these 31 to be detained by blameless necessity till disposed of according to law, there remain, for 229 kept there according to law, 252 kept there in spite of law: 252, for the maintenance of whom the City of London continues to be taxed by Your Lordship, in pursuance of the plan of finance laid down by the Duke of Portland: 252 Convicts, who, quite as much according to law, and much more according to *poetical* at least, not to say *substantial* justice, might be quartered upon Burlington House or in Stratton Street.<sup>115</sup> Your Lordship, smiling approbation for this twelvemonth past and I know not how much longer, as often as any parliamentary approver of a parliamentary plan of justice and reformation ventured to obtrude a hint about performance, bestowing [116–628<sup>r2</sup>] upon it those ready-prepared smiles which Your Lordship has treasured up in store for it to be dealt out to it in regulated measure, so long as the projector lives, or till a warrant can be found for converting prudential smiles into undissembled frowns:<sup>116</sup>—a warrant such as the precedents of office may without much difficulty be made to furnish—

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<sup>113</sup> John Hampden (1595–1643), politician, was celebrated for his opposition in the 1630s to the revival and extension of the ancient tax of ship money by Charles I (1600–49), King of England, Scotland, and Ireland from 1625, and thereby raise taxation without Parliamentary approval. The measure was eventually declared illegal by the Ship Money Act of 1640 (16 Car. I, c. 14). Having been wounded at the Battle of Chalgrove Field of 18 June 1643 fighting for the Parliamentary forces, he died six days later.

<sup>114</sup> The copy of the memorandum has not been located.

<sup>115</sup> The London family homes of Portland and Pelham respectively.

<sup>116</sup> For Pelham’s smile see ‘History’, p. 000 above.

‘*the length of time*’ (for instance) ‘*that has elapsed*’,<sup>117</sup> or the informality and intemperance displayed by animadversions such as these.

In what degree, if in any, death may in that superb and roomy Jail, spite of every relief that the attention of a humane keeper can bestow, have been the fruit of all this crowding and all this misery, it has not fallen in my way to learn. On board the Hulks, the sort of attention which his Grace and his Noble Successor have bestowed upon the subject—the attention of crowding those receptacles likewise with Convicts designed for the Penitentiary House by Parliament, has not been without its fruit: but of this fruit, sweet, I suppose, to the taste of those who cultivate it, bitter, I should have supposed, to the taste of every man who has any sense remaining either of humanity or justice, the description which has just reached me called for another station under the resumed title of the *Hulks*.<sup>118</sup>

Besides the abovementioned inconveniences, the plan for thus forcing the Country to fill itself with County and other local Penitentiary Houses upon the gallypot scale lies open to two objections.—One is, that the Counties (as has been already hinted) will not all of them suffer themselves to be thus forced. Another [116–629<sup>1</sup>] is, that even when every improvement looked to has actually been made, the advantages, even setting aside what Your Lordship has just been seeing in Chapter *economy*, sections *architecture* and *official establishment*,<sup>119</sup> would not be every where alike indisputable.

In proof of the latter proposition, I will beg leave to take for an example the most favourite of all these ‘improved prisons’: the prison in which the admirers of improved prisons would be most at home, if in any: the prison honoured by their most especial protection, and which it was their especial care should not ‘*become neglected*’ for want of inhabitants. The prison serving for example, for proof I will beg leave to refer Your Lordship to a very recent publication from a pen which, as far as depends on intrinsic indications, prefers, though anonymous, the most irrecusable claim to confidence.<sup>p</sup> To Your Lordship, [if]<sup>120</sup> such things were worth knowing, the name of the Author could

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<sup>117</sup> Lapse of time was, of course, one of the four grounds of relinquishment noted in the Minute of the meeting of the Lords Commissioners of the Treasury of 13 August 1800: see p. 000 & n. above.

<sup>118</sup> See pp. 000 below.

<sup>119</sup> [Cross-ref to other parts of the ‘Third Letter’ dealing with economy, architecture, and ‘official establishment’.]

<sup>120</sup> MS ‘is’.

scarcely, I think, be unknown: although to me, who know nothing, it remains unknown, choosing it should be for the sort of reason above mentioned.

<sup>p</sup> The True State of the House of Correction in Cold Bath Fields &c. by a Middlesex Magistrate. 1802.<sup>121</sup>

The passages in question are as follows: ‘*industry, order, discipline, subordination, economy*’ are the points they touch upon.

N<sup>o</sup> 1. Page 11. ‘The due *employment* of the Prisoners according to law in such work as they have been accustomed to, and for which they are most fit, has been *discontinued*; and since that time there has been a gradual decline of industry, order, discipline and subordination in the Prison.’

[116–629<sup>r2</sup>] N<sup>o</sup> 2. Page 12. ‘The only work in which it is pretended to employ the Prisoners is of picking oakum .^.^ at a maximum of three pence a day in earnings.’<sup>q</sup>

<sup>q</sup> Compare this three pence with the Philadelphia twenty pence.<sup>122</sup>

N<sup>o</sup> 3. Page 27. ‘Supposing the Prisoners to work fairly, .^.^ and not to secrete, as has frequently been done, a great part of the materials, rather than be at the trouble of picking them.’<sup>r</sup>

<sup>r</sup> Quere, how much would be secreted by prisoners in a Panopticon Penitentiary House, in which they need never be an instant out of sight?

N<sup>o</sup> 4. Page 13. ‘A new system of *feeding the Prisoners without the Prison*, by their

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<sup>121</sup> i.e. *The True State of the House of Correction in Cold Bath Fields, in the County of Middlesex, and also of the New Prison, in the Parish of Clerkenwell, fairly examined. To which is subjoined, a Sketch of the real Character of Mr. Thomas Aris, Governor of the House of Correction*, London, 1802. No copies of this work have been traced, though it was printed and published by Hatchard, and sold for a shilling, as stated in a notice in the *Monthly Review* (1802), xxxix. 107–8. According to the anonymous reviewer, the author claimed to have been a member of the commission which investigated Coldbath Fields in November 1800, but that ‘for particular reasons, he and some of his friends ceased to belong to it’.

<sup>122</sup> See Liancourt, *Prisons of Philadelphia*, p. 14, ‘The most infirm [of prisoners at Walnut Street], however, may earn easily twenty pence per day, by picking oakum; and there are some who earn above a dollar’, quoted in ‘Second Letter to Pelham’, p. 000 above.

relations and friends, was most unfortunately introduced.’

N° 5. Page 15. ‘The *peace and quiet* of the Prison is *utterly destroyed* by the perpetual visits of the prisoners’ friends with victuals: The friends without are frequently distressed, in order to furnish the prisoners with food, and are *driven to evil practices* to procure the supply.’

N° 6. Page 35. ‘The ostensible idea was that it would save a considerable sum to the Country; *I have no reason to believe that it saves the Country a farthing*; the prisoner<sup>123</sup> demands his allowance, as if nothing were brought to him; and is glad to make himself friends among his fellow-prisoners, by distributing what he does not want for himself.’

N° 7. Page 36. ‘The mere work of opening the hatch ‘at the prison gate .^.^ and serving the .^.^ rations through the different parts of the prison would engage [116–630<sup>r1</sup>] more than two turnkeys from morning to night, without allowing them leisure for any other employment.’<sup>s</sup>

<sup>s</sup> A specimen of the expence of the official establishments upon the plan of the improved prisons, especially when on the gallypot scale.

N° 8. Page 26. ‘If the undertaking were not unsuitable to my character and habits of life (says the worthy Magistrate) I would not hesitate to contract for the profits of the prisoners’ labour, (if they were allowed to work in their respective callings, and in such other labour as is proper for prisoners,) and so pay the County £400 per annum.’

Waving, though but for the moment, an observation suggested by the hypothetical offer, expressed by N° 8, I come now, my Lord, to the second part of my text. Good or not good as it might be for the Counties to be forced to cover themselves with these improved prisons, so it is, they will not all of them at least suffer themselves to be thus forced. Submitting to the tax directly and actually imposed upon them, first by his Grace, and now by Your Lordship, for the maintenance of prisoners whom Parliament has ordered elsewhere—submitting to this tax, perhaps for want of having so distinct a view of the noble hands to which they are indebted for it as this disclosure will now help them to, they demur beforehand to the so much heavier as well as less directly imposed tax, also

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<sup>123</sup> MS ‘prisoners’. The text follows the draft at UC cxvi. 571 (24 November [1802])

declared to be in store for them—the tax of loading them, *a la Vanbrugh*,<sup>124</sup> with *Blackburn* architecture. The tax for [116–630<sup>f2</sup>] maintenance they are complaisant enough to submit to, though not every where without a murmur, because they know not very well how to help themselves: the tax for architecture they may stand excused from loading themselves with, were it only that, in that behalf, neither his Grace’s nor Your Lordship’s pleasure, has ever yet, I believe, been directly signified.

For proof I betake myself once more to the worthy Magistrate: in whose testimony, *as far as it goes*, let it point what way it will, I really have great confidence. In his title page, as well as in his survey, the New Prison is comprized: I mean the so-called New Prison, the old and beggarly neighbour of the vastly new as well as costly and courtly structure, half-prison, half-palace, in Cold Bath Fields:<sup>125</sup> What he says of it is as follows—

N<sup>o</sup> 1. Page 41. ‘Few places of confinement can be under worse regulation than the *New Prison* .^.^.^ The arrangement of the prison itself is such, as renders it impossible to prevent its being one of the most dreadful seminaries of vice and profligacy that can be imagined.’<sup>t</sup>

‘ In this respect, at the worst not as bad as the *Hulks*: nor yet a great deal worse than the Cold Bath Fields Prison, if it be true, as I suspect, without being able to affirm it to a certainty, that the worst and the best are together there at some times, though not at

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<sup>124</sup> An allusion to the ornamental and expensive Baroque architectural projects of John Vanbrugh (1664–1726), whose most famous building was Blenheim Palace, which was constructed at enormous public expense as a reward from the nation for John Churchill (1650–1722), first Duke of Marlborough, leader of the administration as First Lord of the Treasury 1702–10, who had won the decisive Battle of Blenheim on 3 August 1704. Vanbrugh was appointed surveyor in 1805, but resigned in 1716, whereupon the building was seen through to completion in 1725 by Nicholas Hawksmoor (c. 1661–1736). The poet and satirist Alexander Pope (1688–1744) visited the unfinished building in 1716 and described it as ‘a most expensive absurdity’: see *The Works of Alexander Pope, Esq. in Nine Volumes, Complete, with Notes and Illustrations by Joseph Warton, D.D. and others*, London, 1797, viii. 427–8.

<sup>125</sup> The New Prison, a bridewell at Clerkenwell, began operating in about 1615 but burned down in 1679. A house of detention, also called the New Prison, was built on the site in 1685 and subsequently enlarged in 1774–5. Coldbath Fields opened in 1794, and by the early 1800s the dilapidated New Prison and other nearby buildings had been appropriated as a military barracks and drill yard.

all times.

N<sup>o</sup> 2. Pages 42, 43. ‘Four years ago .^.^ plan and estimate .^.^ laid before the Court: the business was postponed *sine die*, under the idea, that the County rate, already burthened in a great variety of ways, would be found inadequate without great inconvenience, to the additional expenditure of £4,000. But may we not hope, if [116–631<sup>r1</sup>] application were made, *where applications well-founded will never fail of due attention*,<sup>u</sup> that such relief would be obtained, as, *without adding to the burthen of the County-rate*, would enable the magistrates to carry the plan into effect.’

<sup>u</sup> What strange place can this be which the worthy Magistrate is speaking of or dreaming of?—I, who have been upon the look out for such a place for above these 8 years,<sup>126</sup> have never yet been able to meet with any thing like it? Is it any where about the Treasury?—any such place as the closet of any such person as the ‘great person alluded to’ presently after by the worthy Magistrate? Then as to foundation—what sort of a ground is it (I wonder) that ‘*an application*’ must have to make it a ‘*well founded*’ one?—An Act of Parliament, for example? applications have been made on such grounds month after month, year after year, to as great persons as any he can have been alluding to, and the ‘*attention*’ shewn to them has been worse than none:—it has had every property of refusal, saving only the honesty on the one part and the quietus on the other.

N<sup>o</sup> 3. Page 44. ‘What then may not reasonably be expected from *one, who* certainly *feels*, as much as any man, *the importance of restraining vice, and improving morals*, to the welfare of society?’\*<sup>v</sup> It would be impossible, [116–631<sup>r2</sup>] I verily believe, to expend from the public purse four thousand pounds in any way more beneficial to the community than that which is here pointed out’.<sup>w</sup>

\* ‘This testimony, it is *humbly hoped*, will not be considered as an instance of *flattery* to the *great person* here alluded to, but a declaration, the truth of which, all to whom his character is known, will readily confirm.’

<sup>v</sup> If what the worthy Magistrate really looks for is a person, great or otherwise, who, by what he ‘feels’ about ‘the importance of restraining vice and improving morals’, is to

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<sup>126</sup> i.e. in his endeavours to build a panopticon prison since the passing of the Penitentiary Act of 1794.

afford him such provision for his prisoners as shall [116–631<sup>2</sup>] not add to the County rates, the worthy Magistrate’s own imagination (Your Lordship may venture to assure him) is the likeliest place for finding what he wants. Years ago he would have made his appearance had there been any such person in existence. An Act of Parliament for doing all this—an establishment which, in the opinion of Parliament, would do all this—would restrain vice and improve morals without adding to the County rates—has by Parliament been ordered to be set up for above these 8 years. Whatever be the thing needful, join will to power and the thing is done. Power for this there has been all this time beyond dispute in a certain place:—Duty there has always been: full knowledge of that duty there has always been:—had *will* been in the same place, the thing would have been done years ago, and neither the worthy Magistrate, nor so many other people, would have been left at this time of day to amuse themselves with ‘hopes’ and ‘expectations’.

<sup>w</sup> Here the worthy Magistrate is quite mistaken. I can [116–632<sup>1</sup>] tell him so upon the very best authority. Your Lordship can shew him a much more ‘beneficial way’ of ‘expending from the public purse’ the interest of double the money: desire him only to look at the next article where, instead of £4,000 once paid for correcting an abuse—he may see a still greater abuse and of exactly the same kind—and £350 a year paid for looking at it and screening it.<sup>127</sup>

Thus far the worthy Magistrate. A supposition unquestionably though tacitly assumed in the hypothetical offer thus made by him, is—that on the other part some regard would be paid to the rules of common honesty; that the County would not be made bankrupt to him, as Parliament has been made to me: and that after his proposal had been accepted, his capital, with the concurrence of the acceptors, advanced upon the faith of it, and Acts of Parliament, if necessary, obtained for it, he would not have to see the execution of it set down *in petto* for the Greek calends, by any such person as the predecessor of the ‘*great person*’ he is so afraid of flattering—not to speak of successors.

[116–632<sup>1</sup>] To the gentleman himself it would have seemed, that in making any such offer he knew what he was about:—but the ‘*great person*’ would have known better things. The more beneficial to the public he had, in his own view of the matter, made his terms, the more appalling the scorn with which he might have been looked down upon, by the intuitive and super-calculative wisdom of such high personages:—after learning from one

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<sup>127</sup> i.e. the annual salary of the Inspector of Hulks: see p. 000 n. above.



great person that his terms were too high, he might learn from another that they were too low;<sup>128</sup> or from each of them, that they were too high and too low at the same time:—and if on any other occasion he had ever been guilty of thinking for the public, this too might have been numbered among his '*flights*'.<sup>129</sup>

What will become of the worthy Magistrate, whose existence, to judge by the terror he seems to be in of being prosecuted for flattery, seems to depend upon the breath of the great person's nostrils? If a wish to submit to a limited deduction from a sum of £12,000 a year for maintaining a thousand<sup>130</sup> prisoners creates doubts of sanity,<sup>131</sup> what mercy can there be for an offer to maintain 200 prisoners or thereabouts for a sum of £400 a year—not *plus* but *minus*.<sup>132</sup> How much longer will great persons suffer him to go about without a keeper? I see him tremblingly alive all o'er:—I see Your Lordship trembling for him in mere sympathy: I hasten to present [116–632<sup>r2</sup>] Your Lordship with the balm of tranquillity to pour into his ear. Cold Bath Fields Prison (Your Lordship may be pleased to observe to him) is up already: it is up high in favour: and—what is beyond every thing, and without which every thing else would be as nothing—there is no Gospel-propagating Lord—no friend of the 'great person's' to steal up the back staircase and whisper in his ear—*up or not up, the spot is too near me—it must not be made use of*.<sup>133</sup>

Let him come forward then with his offer (I mean the worthy Magistrate). It is as<sup>134</sup> yet but a hypothetical one:—let him convert it into a categorical one: accepted or not by the County, he has nothing to fear from great persons, so long as he can keep himself from '*flattery*'. As to the £400 a Year, Your Lordship and he together will be able to find a use for it:—it will serve within a trifle for a place of *Inspector of Prisons*; to smell at the same

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<sup>128</sup> See pp. 000 above.

<sup>129</sup> See p. 000 above.

<sup>130</sup> MS '1,000'. The text follows the draft at UC cxvi. 576 (n.d. December 1802).

<sup>131</sup> See the remark made by Pelham in his letter to Bunbury of 19 August 1802 regarding the 'present state of [Bentham's] mind' in 'History', p. 000 above.

<sup>132</sup> For the magistrate's offer to give £400 per annum for 'the profit of the prisoners' labour' in Coldbath Fields prison see p. 000 above.

<sup>133</sup> i.e. Belgrave, who, according to Bentham, had sabotaged the building of the panopticon penitentiary at Battersea Rise: see p. 000 above.

<sup>134</sup> MS 'a'. The text follows the draft at UC cxvi. 577 (n.d. December 1802).

nosegay with the Inspector of Hulks<sup>135</sup> who will come on the carpet presently:—it will serve for *otium cum dignitate*<sup>136</sup> to the declared *protégé* of the worthy Magistrate’s, I mean the so well protected Governor:<sup>137</sup> a personage who, if he does not do much good to a prison by governing it, might at any rate not do much harm to it by inspecting it at a distance.

Another scrape indeed, it must be confessed, my Lord, and, at first blush at least, a still more serious one, is that which the worthy Magistrate [116–633] seems to have fallen into, by asking for Jail-building money from Parliament, to ease his County from so much Poor-rate.<sup>138</sup> It was but t’other day, as Your Lordship has been seeing, that Acts of Parliament were broke through by great persons to shake the burthen off from government and throw it *upon* the Counties.<sup>139</sup> Great persons giving themselves this trouble lay the burthen on the Counties: and already he calls upon them to undo their own undoings, and get Parliament to take it off the Counties! The Counties, did I say? I beg his pardon—not all the Counties together and by a general Act—but one County only and that the richest in the kingdom, and by a particular Act—by a privilegium which he wishes to see made on purpose!—A more unfortunately-timed pretension, to all appearance at least, surely was

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<sup>135</sup> An allusion to the two Kings of Brentford, who enter hand in hand at the start of Act II, Scene ii, in *The Rehearsal* (first performed in 1671), attributed to George Villiers (1628–87), second Duke of Buckingham. Although not specified in the stage directions, a tradition that the actors playing the two Kings entered smelling from the same nosegay at this point in the play, and perhaps again at their appearance in Act v, Scene I, appears to have evolved, and is alluded to in the following extract from ‘An Occasional Prologue’ written for the play by the satirist Paul Whitehead (1710–74) in 1767:

For *Brentford*’s state, two kings could suffice,  
In ours, behold! *four Kings of Brentford* rise;  
All smelling to one nosegay’s od’rous savour;  
The balmy nosegay of—the public favour.

See *The Rehearsal: with A Key, or Critical View of the Authors, and their Writings, Exposed in this Play*.<sup>^.^.^.</sup> As Acted at the Theatres Royal, with the new Occasional Prologue, written by Paul Whitehead, Esq; On opening Covent Garden Theatre, September the 14<sup>th</sup>, 1767, 17<sup>th</sup> edn., London, 1768, p. [3].

<sup>136</sup> i.e. ‘leisure with dignity’, an echo of Cicero, *De Oratore*, III. ii: *in otio cum dignitate esse*.

<sup>137</sup> The ‘well protected Governor’ was Thomas Aris, Governor of Coldbath Fields, and the ‘worthy Magistrate’ was William Mainwaring: see p. 000 n. above.

<sup>138</sup> See p. 000 above.

<sup>139</sup> See Portland to the Lords Commissioners of the Treasury, 14 October 1799, *Correspondence (CW)*, vi. 261 n., and p. 000 above.

never brought forward, than this which has been thus insinuated by a gentleman who, I dare answer for him, meant nothing less than to offend times and seasons.—Ah! why did I not see that fatal page before it made its escape out of the press! No human being so insignificant, but that accident may throw in his way the means of service.

On this untoward occasion, what is there that can be done for a gentleman, who, in the midst of his anxieties to steer clear of the rock of offence,<sup>140</sup> has thus run full upon it? Step in once more, my Lord, to his relief, for nothing less than a great person can effect it. The seals of the fountain of mercy are in Your Lordship's hands—grudge not a [116–633<sup>r2</sup>] few drops from it to save this worthy gentleman. If it be in the power of virtue to give a claim to mercy, has he not virtue to command it? His faith, his hope, his charity,<sup>141</sup> do they not all center in great persons?

Speak to him then, my Lord, once more:—say to him any thing that will make him easy. Shew him how right and wrong depend upon existing circumstances:—whisper to him that all this Machiavelism for throwing prisoners upon Counties was a mere *make-believe*:—satisfy him that nothing can be a matter of more profound indifference to any body than it is to great persons in what Jail, or Hulk, or improved Colony, and in what numbers, human creatures starve or poison one another, so that there be not a 'Panopticon for them to be sent to':<sup>142</sup>—remind him, that in the place he has in view, no offence can, by any Jail or number of Jails, improved or unimproved, be ever given to Noble Lords, whose *veto*, when they are pleased to pronounce it, is so fatal to Acts of Parliament:<sup>143</sup>—assure him, that neither by the one great person, nor by any other, is the purse ever taken out of the hands of Parliament, unless for a particular purpose, and to oblige a friend:<sup>144</sup> certify to him, that measures of this sort are disposed of, moment after moment, sometimes upon one principle, sometimes upon opposite principles, as the convenience of each moment presents them to great minds: explain to him, that when persons are approved of, and the purpose of the moment is to be served, [116–634<sup>r1</sup>] there is no more difficulty in acting

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<sup>140</sup> Isaiah 8: 14; Romans 9: 33; and I Peter 2: 8.

<sup>141</sup> An echo of I Corinthians 13: 13.

<sup>142</sup> [ANNOTATION TO BE FINALIZED.]

<sup>143</sup> An allusion to the failure of administration to implement the Penitentiary Acts of 1779 and 1794.

<sup>144</sup> An allusion to the purchase of the Salisbury estate, ostensibly as a site for the panopticon penitentiary, but, according to Bentham, really to oblige Salisbury: see p. 000 above.

through Parliament than against Parliament, nor in tossing a burthen from the Counties upon the public, than from the public upon the Counties; that where neither engagements nor even laws can bind, much less can mere professions give any sort of trouble: and that where common honesty is not so much as an impediment, much less can consistency be a bar; announce to him in short, that though nothing is to be done for those whose trust is in law, good faith, and recognized utility, all things are possible for those whose charity knows how to choose a proper object, so long as their hopes are humble and steer clear of flattery.

If, after all this consolation, it should still occur to him that the £4,000 is the one thing needful,<sup>145</sup> and that this one thing needful is still wanting, whisper again into his ear, my Lord, or say aloud to him—no matter which—(for at certain heights from whence shame as well as fear is looked down upon, concealment is without a motive) give him to understand then any how, that there are other expedients—that there are shorter and cheaper modes of disposing of prisoners, than by suffering them to remain as a load either here or elsewhere upon government, or upon the Counties: that these preferable and preferred expedients are not speculative, theoretical, flighty, utopian, ideal ‘*projects*’, but practical, practised, well-considered, well established, official measures: that they are in full use with Noble Lords and never disapproved of by great persons: [116–634<sup>r2</sup>] by Noble Lords and great persons, who, whether they ‘feel’ or do not feel exactly ‘*as much as any man*’, feel one of them exactly as much as another, the ‘*importance of restraining*<sup>146</sup> *vice and improving morals*’<sup>147</sup>—a proposition he may venture to assure himself of, without danger of mistake, unless he has any surer mode of finding out feelings than by actions. Telling him all this, my Lord, bid him rely on it with more than ‘humble hopes’: and if, after such assurances, fear still predominates, and faith still wavers, put this paper into his hand, my Lord, and point to the next article.

[116–635<sup>r1</sup>]

## II. Hulk Mortality—Sinecure made to screen it.

I thought I had done troubling Your Lordship about the Hulks: but fates have ordered

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<sup>145</sup> See Luke 10: 42.

<sup>146</sup> MS ‘retraining’. The text follows the draft at UC cxvi. 581 (2 January 1802).

<sup>147</sup> See p. 000 above.

otherwise. Accident has this moment put into my hand the interesting publication of M<sup>r</sup> Neild.<sup>148</sup> Visit to the Hulks in March last, by the author and Sir Henry Mildmay:<sup>149</sup> the official screens broke through and among the results the following—

N<sup>o</sup> 1. PORTSMOUTH HARBOUR; *Captivity Hulk*,<sup>150</sup> March 15<sup>th</sup> 1802. <sup>w</sup> ‘Many with ruptures: none with trusses: Sore legs and a number unable to work in consequence .^.^.^ Cause, according to the Surgeon—an impoverished habit and want of proper care: viz: during their confinement in the Gaols:’<sup>151</sup> in those Gaols which had been kept crowded by Lord Pelham contrary to law, in pursuance of the plan laid down by the Duke of Portland. Mortality, however, as yet a trifle: ‘not one half’ as great in proportion as on board the Langston Hulks; which see: in a twelvemonth not so much as an eight part of the whole.

<sup>w</sup> Neild’s *Account of Society for discharging small debts*, pp. 307, 322.<sup>152</sup>

N<sup>o</sup> 2. LANGSTON HARBOUR; *La Fortunée*,<sup>153</sup> March 16<sup>th</sup> 1802. ‘Hospital ward .^.^.^ Persons in all stages of disease and with all complaints .^.^.^ intermixed together. Water penetrated into it through the floor of the quarter deck. Straw in the sacking almost reduced to powder and full of vermin. Decks extremely low: much crowded: no proper ventilation: many of the ports nailed down and could not be opened. Divine service .^.^.^ a small part only of the Convicts can have access to it .^.^.^ Captain never attends himself.’<sup>154</sup>

[116–635<sup>r2</sup>] Deaths in 1797, nine of 600; in 1801, 120 out of 500: not quite one in four. In 1802, before the first quarter was at an end (viz. March 16<sup>th</sup>), deaths 34; though the

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<sup>148</sup> See p. 000 n. above.

<sup>149</sup> Sir Henry Paulet St John Mildmay (1764–1808), MP for Westbury 1796–1802, Winchester 1802–7, and Hampshire 1807–8.

<sup>150</sup> The *Captivity*, previously H.M.S. *Monmouth*, had in October 1796 been fitted out as a hulk at Portsmouth.

<sup>151</sup> A paraphrase of, rather than a direct quote from, Neild, *Account of Society for Discharging Small Debts*, pp. 309–10.

<sup>152</sup> For Neild and Mildmay’s report of their inspection of the convicts of the hulks *Captivity* at Portsmouth Harbour and *La Fortunée* at Langstone Harbour on 16 March 1802 see Neild, *Account of Society for Discharging Small Debts*, pp. 307–19.

<sup>153</sup> *La Fortunée*, a French frigate captured in 1779, had in October 1785 been fitted out as a hulk at Portsmouth, and in 1791 had been stationed at Langstone Harbour.

<sup>154</sup> A paraphrase of, rather than a quote from, Neild, *Account of Society for Discharging Small Debts*, p. 313.

number alive was by that time reduced to 300.<sup>155</sup> Number of the dead for the whole year, supposing no such visit, and the mortality continuing at the same rate, 165 out of the 300:—more than half the number of the living. Nobly done, Duke of Portland and Lord Pelham! how convenient to M<sup>r</sup> Addington in his accounts! What a relief to the only grand grievance that presses upon most Noble minds, ‘*the expences attending the custody*’ of these wretches ‘*borne by Government.*’<sup>156</sup>

Please begin table. Please insert dots between the text and the corresponding number.

Invalids or cripples on deck .^.^.	50
Confined to their beds .^.^.	11
In the Hospital Ward .^.^.	11
Total invalids out of 300 .^.^.	72
But besides these, ‘20 of the worst had been recently removed’. Invalids, therefore, out of 320 .^.^.	92 <sup>157</sup>

End table.

All this sickness not without its consolations: ‘discipline considerably improved’: ‘of late’ no ‘insurrection’: ‘of late none of them had been shot’.<sup>158</sup> Here, as in New South Wales, such is the use of famine. Among the dying, insurrection difficult:—among the dead, impossible. Erasmus sang the praise of folly:<sup>159</sup> who shall sing the praise of famine?

<sup>155</sup> See Neild, *Account of Society for Discharging Small Debts*, p. 315.

<sup>156</sup> See Portland to the Lords Commissioners of the Treasury, 14 October 1799, *Correspondence (CW)*, vi. 261 n. and p. 000 & n. above.

<sup>157</sup> The figures are taken from Neild, *Account of Society for Discharging Small Debts*, p. 316.

<sup>158</sup> A paraphrase of, rather than a direct quote from, *ibid.*, p. 317.

<sup>159</sup> Desiderius Erasmus (1466–1536) was author of *Moriæ Encomium*, written in 1509 and first printed at Paris in 1511. A translation into English by Sir Thomas Chaloner (1521–65), statesman and poet, was published as *The Praise of Folie* at London in 1549.

To whom, if sung, shall it be dedicated? What rivalry—what generous rivalry—between Your Lordship, and the Duke of Portland—and M<sup>r</sup> ——<sup>160</sup> and M<sup>r</sup> Pitt! Who has done most to furnish materials? By famine, budgets are [116–636<sup>r1</sup>] eased: without famine, Noble Lords could not propagate the Gospel at their ease: by famine, Noble Lords oblige their friends.<sup>161</sup>

Such was the state of things in a ship ‘manifestly prepared’ (say the Visitors) ‘for our reception’.<sup>162</sup>

Labour and expence of inspection by Sir Henry Mildmay and M<sup>r</sup> Neild: auspices and sufferance by Lord Pelham. What a troublesome man this Sir Henry! What a troublesome man this M<sup>r</sup> Neild! why could not they have kept quiet!

With whom did the enquiry originate? With any of the gentlemen who, in Your Lordship’s Office, by one name or another, Secretary, Under Secretary, Secretary’s Law Clerk, Secretary’s Law Clerk’s Clerk, are so well paid for looking after these things? No, my Lord, the wretches might have been rotten, the whole hulk full of them, as, at the rate they were rotting, half of them would have been by this time, before any of these Under Omrahs would have thought of disturbing the slumbers of the Subahdar<sup>163</sup> by so much as a whisper about what was passing in the *Black-Hole*.<sup>164</sup>

If then with no one of the official persons who were so well paid for it, with whom then did the enquiry originate? Remotely and in the first instance with a humane Jailor,<sup>x</sup> whose duty led him [116–636<sup>r2</sup>] to bring Convicts to this Hulk. In the first instance with this unpaid Jailor: in the next place, with an unpaid gentleman—with a gentleman to

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<sup>160</sup> i.e. Addington, as per the draft at UC cxvi. 583 (20 December 1802).

<sup>161</sup> An allusion to Belgrave and Salisbury respectively: see pp. 000, 000 above.

<sup>162</sup> See Neild, *Account of Society for Discharging Small Debts*, p. 312: ‘Having completed our inspection of the Convicts in Portsmouth Harbour, we proceeded to carry our inquiries into the state and condition of the Hulks in Langston Harbour. We have here to regret still more, that the object of our investigation had been anticipated, as we have good reason to believe, not only from the most *respectable and undoubted authorities*, that we should have seen cause even for more severe animadversion, had not the ship been manifestly prepared for our reception’.

<sup>163</sup> A subedar was a governor of a region within the Mughal Empire, the commander of a town or region, or an Indian-born officer, of a rank correspondent to captain, in the British Army.

<sup>164</sup> For the Black Hole of Calcutta see p. 000 n. above.

whom, because there were unpaid gentlemen to whom such intelligence would (it was known) be as interesting, as to the so well paid gentlemen it would have been indifferent, if not worse than indifferent, the information was addressed. I speak of M<sup>r</sup> Neild, a second Howard, who with all the zeal, with all the munificence, and more than all the gentleness of his illustrious predecessor, has spoken the word—has started noble game, and caused the mask of humanity to fall off from faces of higher rank, than those of the subordinate tyrants, whom it fell to the lot of his predecessor to hunt out of their holes.

<sup>x</sup> M<sup>r</sup> Chapple, Keeper of the New Prisons, Bodmin. Letter dated 5<sup>th</sup> February 1802. In less than a Year and a half ending that day, out of 10 Convicts whom he had brought there, ‘6 dead, the other four looking very poorly’.<sup>a</sup> It is on that [116–636<sup>r2</sup>] occasion that, in regard to the whole number confined in that same Hulk, he learnt what is mentioned by Sir Henry Mildmay and M<sup>r</sup> Neild:<sup>b</sup> out of 500, living at the commencement of the Year 1801, deaths 120, at the end of it.

<sup>a</sup> Neild, p. 322.<sup>165</sup>

<sup>b</sup> Neild p. 315.

The survivors, upon his enquiry, say they are ‘half starved’:—appearances speak the same thing:—Officers plump and rosy. Would this be the case, if mere pestilence without famine were the cause?—The question is not mine: to the humane and intelligent informer<sup>166</sup> belongs the credit of it.

A private gentleman could point to Lord Pelham’s office: it required a Member of Parliament, if not two, to force the intrenchments of it.<sup>167</sup> Mortality (says one of those to whom this humane Jailor’s Letter had been shewn) mortality is raging in the Hulks: Sir Henry Mildmay—M<sup>r</sup> Neild—were it but possible—would look at it. The visit not being to be prevented, nothing was left to persons in office (Gentlemen or Noble Lords, I know not exactly which) but to be delighted with [116–637<sup>r1</sup>] it. They were delighted with it accordingly. They had heard rumours—they were alarmed—they did not know what to do about it—they did not know whom to trust—it was a happy opportunity—a real acquisition

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<sup>165</sup> James Chapple’s letter, which is in fact dated 24 February 1802, appears in Neild, *Account of Society for Discharging Small Debts*, p. 321.

<sup>166</sup> i.e. Chapple: see *ibid*.

<sup>167</sup> One of the Members of Parliament Bentham had in mind was presumably Bunbury.



to have somebody to look into the business who was not in office .^.^.^ . An order then for two visitors to take with them<sup>168</sup> .^.^ . O' no! it was not necessary—they need not trouble themselves—it should meet them there. It should meet them there! accordingly it did meet them there:—and why?—that every thing not fit to be seen might first be put out of sight as much as possible:—that part of the filth might be shoveled away:—that eatable food might for the moment take place of uneatable: that the plague of famine might for the time be stayed: that in the motley company there each person might have his part given him to act: that instructions might be given to one class, injunctions backed with menaces to another: that every mouth might have a padlock put to it: that a varnish of some sort or other might be put upon every object—that a mask of some sort or other might be put upon every face.

Were not these the motives? Then why was the order refused to be delivered? Why was it determined to be *sent*? Why was it that, the visit was so '*manifestly prepared for*'?<sup>169</sup> Why was it that, at the expence of a virtual confession of male-practice below, of connivance and protection above—of guilt in both places, the principle of *unexpected visitation*—so fundamental a principle in economics—a principle so universally [116–637<sup>2</sup>] recognized as such—a principle so invariably applied to practice where any thing like good management is meant—why was it that so indisputable and obvious a rule of prudence was thus openly violated, without so much as a pretence?

The visit paid, the facts ascertained, report drawn up, the result is whispered to Lord Pelham.<sup>170</sup> His Lordship starts out of his sleep. What does he then?—Does he change the system? Does he bethink himself of law? of engagements? of a system of unintermitted inspection? of appropriate separation and aggregation? of universal industry? Does [it]<sup>171</sup> occur to him to transfer the undestroyed remnant from the clutches of their destroyers to the hand of a guardian already named by Parliament? of a keeper acting under thousands of

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<sup>168</sup> According to Neild, *Account of Society for Discharging Small Debts*, p. 321, Neild and Mildmay's inspection of the hulks had been authorized by 'an order from his Majesty's Principal Secretary of State for the Home Department, directed to us'.

<sup>169</sup> See p. 000 & n. above.

<sup>170</sup> A manuscript copy of Neild and Mildmay's 'Report on the State of the Convicts in Portsmouth Harbour', dated 16 March 1802, is at TNA, HO 42/65, fos. 109–112, and of their 'Report on the condition & treatment of the Convicts in Langstone Harbour', dated 18 March 1802, is at *ibid.*, fos. 102–7.

<sup>171</sup> MS 'he'. The text follows the draft at UC cxvi. 588 (n.d.)

eyes? of a life-insurer who would lose £50 and more by every escape—£100 and more by every death?<sup>172</sup> of a system and a person he had so often been reminded of by higher persons, as often discussed<sup>173</sup> with tokens of pretended approbation, and manufactured smiles?<sup>174</sup> In this way, or in any other way, does he make, or for a moment think of making, any the smallest change in the system of management? or rather, of destruction carried on under a pretence of management? No: he employs a gentleman to look at it.<sup>175</sup> Does he abate the nuisance?—No: he creates a place. A page or two and we shall see what *sort* of a place, and what the *object*, and what the *fruit* of it.

An Act is necessary. The visit is on the 16<sup>th</sup> of March, and already on the 24<sup>th</sup> the Act has passed the sceptre.<sup>176</sup> There is a time for all things.<sup>177</sup> When is the time for waking?—when a place is to be created. When is the time for sleeping? When Parliament is to [116–638<sup>r1</sup>] be obeyed, engagements fulfilled, reformation and economy planted, pestilence and famine stayed, and a system established which puts an end to places.

The Act is passed, my Lord, and what is done by it? Matters of ‘extreme and pressing necessity’ are supposed; and by whom is the remedy to be applied? By ‘*the*

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<sup>172</sup> According to ‘Twenty-Eighth Report from the Select Committee on Finance’, Appendix F. 3., in *Commons Sessional Papers of the Eighteenth Century*, cxii. 73, Bentham would be subject to a fine of £50 should a prisoner escape from the panopticon penitentiary, ‘irresistible Violence from without only excepted’. For the insurance of the lives of the inmates see ‘Letter to Pelham’, p. 000 & n. above.

<sup>173</sup> MS ‘who as often dismissed’. The text follows the draft at UC cxvi. 588 (n.d.)

<sup>174</sup> In the draft at UC cxvi. 116 (n.d.), Bentham has noted in the margin at this point: ‘In Dec<sup>r</sup> L<sup>d</sup> P. smiled about Panopt. to Wilberforce.’ See ‘History’, p. 000 above.

<sup>175</sup> i.e. Pelham’s appointment of Aaron Graham as Inspector of the Hulks.

<sup>176</sup> Neild and Mildmay’s inspection of the hulks took place on 16 March 1802, and the Hulks Act of 1802 received the Royal Assent on 24 March 1802. During the Bill’s Committee stage in the House of Commons on 10 and 15 March 1802 (prior to the inspection, contrary to Bentham’s suggestion), the appointment of an Inspector of Hulks, with an obligation to make quarterly reports to Parliament and with a salary of £350 per annum, had been proposed by Sylvester Douglas (1743–1823), first Baron Glenbervie, Chief Secretary for Ireland 1793–4, Lord Commissioner of the Treasury 1797–1800, Paymaster of the Forces 1801–3, Vice-President of the Board of Trade 1801–4, who noted that at Langstone Harbour, ‘considerable abuses had taken place with respect to their [the prisoners’] food and cloathing, and various other matters’: see *Parliamentary Register* (1796–1802), xvii. 170–1, 212.

<sup>177</sup> An echo of Ecclesiastes 3: 1.

*Justices of his Majesty's Court of King's Bench*<sup>178</sup>—by a body, a most competent one while it exists, but which, for one knows not how many months out of the twelve, has no existence. In circuit time, for example, while dispersed all over England, then it is they are 'to take order' about a Hulk—to act together with hundreds of miles between them, or the mischief which is so 'extreme and pressing' is to run on its course.

Duty of the Inspector 'one visit in each quarter': add 'at least', item 'or oftener if occasion shall require'. Salary carefully limited: not to exceed £350 a Year for gentleman and clerk: and that 'for all charges charges and expences':<sup>179</sup>—£87. 10<sup>s</sup> a time for four times, and not a penny for a fifth! In this state of things, what is the occasion that shall require it? Time for going, if to any purpose, when *unexpected: duty* to go, if *use* were the object of it, at such *times*: penalty for the performance of such duty, trouble and costs. Suppose a call for such a visit—for the exercise of any such duty—by whom shall the call be heard?—By the Inspector? every journey he takes is a fine upon him: so much as the charge of the journey amounts to, so much of his fixed salary is eat out by it. By whom then? By Noble Lords, or by gentlemen [116–638<sup>r2</sup>] who are supposed to think for them?—When it was their own business, they thought nothing about the matter: let us hope so at least, and that when year after year they kept destroying men by hundreds, for want of thought. Henceforward, now that they have made it other people's business to think of it—now that they have made a pretence for themselves for not thinking of it—a pretence which they never had till now—is it now that they will begin to think of it? they of whom, upon the most favourable of all possible constructions, the best that can be said is, that they never bestowed a thought upon it before?<sup>180</sup>

Thus much as to *principle*: now for experience. The time is short: yet not so short, but that experience crowds into it.—Under Lord Pelham, if Remedy lingers, Abuse shews the speed which it is in the power of encouragement to produce.

The place being to be made, by whom was it to be filled? By any body that had the *will* to fulfill the duties of it? by any body who had so much as the *power*?—Alas! no:—

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<sup>178</sup> The Hulks Act of 1802, § 2, provided that 'in Matters of extreme or pressing Necessity [the Inspector] shall and may make a special Report thereof to the Justices of his Majesty's Court of King's Bench, who shall immediately take Order therein, and regulate or redress the same'.

<sup>179</sup> See the Hulks Act of 1802, § 2.

<sup>180</sup> In the margin, Bentham has noted at this point: 'Insert here *Qui custodiet &c.*'

under Lord Pelham such requisites are not required.

Had the removal of the abuse been the object, one description of persons were marked out by the nature of the case, as the persons to be *advised with* at least, about the choice. These<sup>181</sup> it is scarce necessary to say, were the persons from whose spontaneous and disinterested exertions knowledge of the existence of the mischief had been obtained. In that quarter appeared at any rate the fairest [116–639] presumption in regard to *will*—the clearest proof of a *disposition* at least, not to grudge exertions toward the application of a remedy, howsoever that disposition might be overruled by other circumstances. From the mere circumstance of a man’s having given information of a mischief, the conclusion is certainly far enough from being a necessary one, that, whether obtainable or not obtainable, he would himself be a fit person to be employed in the application of a remedy. A person so circumstanced is, however, the first person the idea of whom would naturally present itself in that view, supposing him not set aside by other specific considerations. I mean always in the eye of any official person, to whom the cure of the mischief was either the sole object or so much as the primary object in view. To a mind contemplating the subject in any such point of view, a man, in whose instance such *primâ facie* evidence of fitness had manifested itself, would naturally present himself as standing first upon the list of candidates.

*Principles* standing thus, now as to *facts*. Of two persons *competent* in the highest degree to do the business—men above all exception—*willing* to do the business, in at least one instance (for they had done it in one instance), indication had been given by experience. Inspectors spontaneous, zealous, gratuitous; two for this one office. The place being to be made, was it offered to either of these gentlemen?—was it offered to Sir Henry Mildmay?—was it offered [116–639<sup>2</sup>] to M<sup>r</sup> Neild? the negative is but too notorious. If in one of the two instances, situation in life was such as to exclude hope of acceptance, that could not be the case in the other.

Thirty years ago the indefatigable and gratuitous Agent of the Charity for the relief of debtors, travelled the first of circuits three years before even Howard had begun his.<sup>182</sup> I

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<sup>181</sup> MS [^^^]. The text follows the draft at UC cxvi. 590 (27 December 1802).

<sup>182</sup> Having previously inspected prisons at Calais, St Omer, Dunkirk, Lille, and Paris, Neild in 1770 made his first inspections of British prisons, namely Newgate and Wood Street in London, Derby prison, Liverpool

called Neild a second Howard:<sup>183</sup> with more propriety I might have called<sup>184</sup> Howard a second Neild. Howard sunk under a jail fever, Neild has survived one.<sup>185</sup> The exertions of Howard have long since received their quietus from above: Neild's seem but to increase with age. Two such circuits in one year adorn the annals of 1802.<sup>186</sup> His Honourable Colleague—a Member of the legislature and not an idle one—a man standing already in full light<sup>187</sup>—would derive nothing like illustration from a hand like mine.

In a station like Your Lordship's, there have been men that would have knelt to both these gentlemen rather than not have gained one of them for the office. In the instance of M<sup>r</sup> Neild at any rate, whether he would or would not have accepted of the office would not be known, to a certainty at least, without asking: accordingly he was not asked. The experiment would have been too dangerous: it was a case not to be trifled with. Seeing how he had been occupying himself, and what he lived for, would any prudent man have answered for his non-acceptance? Year after year his active beneficence had embraced and covered [116–640<sup>r1</sup>] the whole island:<sup>188</sup> who could answer for his not consenting to charge himself with two or three spots. Year after year he had gone through the same sort of business gratis: who could answer for his refusal to undertake for a portion of it, for a price. Year after year he had done the same sort of business without authority: who could say that, with or without ordinary recompense, he might have accepted of that authority, the effect of which could not but be to second in such a variety of ways, his generous endeavours. Below—above—every where—authority, even though it were without power,

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bridewell, and the dungeons at Chester. Howard's career as a penal reformer began in 1773 when, following his appointment as Sheriff of Bedfordshire, his discovery of abuses at the county gaol led him to investigate the gaols in neighbouring counties.

<sup>183</sup> See p. 000 above.

<sup>184</sup> MS 'I called'. The text follows the draft at UC cxvi. 591 (28 December 1802).

<sup>185</sup> Howard contracted typhus on an inspection at Kherson in Russia, where he died on 20 January 1790. Neild contracted the disease at Warwick in 1781.

<sup>186</sup> Bentham presumably had in mind the reports on the state of debtors prisons as of March 1802 that Neild published in *Account of Society for Discharging Small Debts* and the list of prisons which Neild had visited since July 1802 sent to Bentham on 27 December 1802 (see *Correspondence (CW)*, vii. 177–8).

<sup>187</sup> i.e. Sir Henry Mildmay.

<sup>188</sup> For Neild's own account of his prison-inspection career see 'Memoir of James Neild, Esq. LL.D. (Written by Himself)', in Thomas Joseph Pettigrew, *Memoirs of the Life and Writings of the Late John Coakley Lettson*, 3 vols., London, 1817, ii. 191–207.

is of use. *Below*, it commands information: *above*, it gives a claim to notice.

Were these gentlemen, or either of them, so much as consulted with on the choice?—Nor that neither. How could they have been? Under the auspices of Lord Pelham—under the administration of gentlemen on t’other side the wainscoat<sup>189</sup>—places are made for gentlemen, not gentlemen searched<sup>190</sup> out for places. Is it not so? a page or two will soon demonstrate.

Would there have been any thing wild, speculative, incongruous, so much as unaccustomed in a choice guided by considerations such as above suggested? Let us look back a little. In the case of Convicts, Howard was the first investigator of the system of abuse: Howard’s was the hand first chosen for the application of the remedy: I speak of the Penitentiary establishment in its first intended shape.<sup>191</sup> In a succeeding [116–640<sup>r2</sup>] list, to known zeal in this line of service, rank afforded an additional pledge—an additional recommendation. When a second set of super intendants were to be looked out for, sought or unsought, it was destined for Lord Minto and Sir Charles Bunbury: neither Lord Minto nor Sir Charles Bunbury disdained<sup>192</sup> the office.<sup>193</sup>

Other principles of selection guide Lord Pelham. Abuse being brought to light by these intruders, busy bodies, what was to be done? Ingenuity of one sort is not wanting: the answer was neither difficult nor tardy. What the eye does not see, the heart will not rue. Put in a sure man and give it him in charge to cover it up: the pretence for meddling will thus be taken from all such busy-bodies. Then (as Blackstone would have said) ‘every thing is

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<sup>189</sup> i.e. John King. [ANNOTATION TO BE FINALIZED.]

<sup>190</sup> MS ‘searched’. The text follows the draft at UC cxvi. 591 (28 December 1802).

<sup>191</sup> The Penitentiary Act of 1779 provided for the appointment of three supervisors, whose role was to identify a site on which the national penitentiaries for male and female prisoners would be built. The initial appointees were John Howard, John Fothergill (1712–80), physician and naturalist, and George Whatley, the Treasurer of the Foundling Hospital, but they failed to agree upon a location.

<sup>192</sup> MS |^^|. The text follows the draft at UC cxvi. 592 (28 December 1802).

<sup>193</sup> Following the death of his friend Fothergill in December 1780, Howard resigned as a supervisor in January 1781. Three new supervisors, Gilbert Elliot Murray Kynynmound (1751–1814), first Baron Minto, Viceroy of the Anglo-Corsican Kingdom 1793–6, President of the Board of Control 1806, Governor-General of India 1807–13, Sir Charles Bunbury, and Thomas Bowdler (1754–1825), writer and literary editor, were then appointed, and they settled on the site at Battersea Rise where Bentham had hoped to build the panopticon penitentiary.

as it should be'.<sup>194</sup> By one and the same operation, abuse obtains concealment; favourites provision; Ministers patronage. By a metamorphosis as prompt as it was ingenious, out of the bitter thus cometh forth sweet.<sup>195</sup> The busy-bodies thought to have put an end to the abuse: they thought to have served the public: Good creatures! they are compleatly taken in—compleatly jockeyed. A new screen is bought for the abuse and the public pays for it. Lord Pelham taps the wainscoat as usual for the gentleman by whom every thing is done: by whom, whether any thing be or be not thought of or no, every thing at any rate is done.<sup>196</sup> The wainscoat sounds, and in comes the gentleman with a friend in his pocket for the place.<sup>197</sup>

[116–641<sup>r1</sup>] That recommendation by subordinates should be taken without enquiry is natural enough, customary enough, certainly not illegal; and so far, without dispute, not culpable. In the present instance, for judging of the propriety of the recommendation, and

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<sup>194</sup> See Blackstone, *Commentaries on the Laws of England*, iv. 49.

<sup>195</sup> An echo of Judges 14: 14.

<sup>196</sup> i.e. John King.

<sup>197</sup> According to his obituary in *The Annual Biography and Obituary*, iv. (1820), 402–22 at 403, Aaron Graham had, prior to his appointment as Inspector of Hulks in 1802, ‘acquired the good opinion of those in power’ thanks to his service to the colonial government in Newfoundland, and ‘on his return home he was employed in a variety of confidential situations by government’. These ‘situations’ consisted of work for the Home Office, including a commission from John King, to investigate, with his fellow magistrate Daniel Williams, whether the naval mutineers at Spithead and the Nore had any connections with the London Corresponding Society, and to report on the state of the peace in Staffordshire during the winter dearth of 1800: see King to Graham and Williams, 16 June 1797, Graham and Williams’s report, 24 June 1797, and Graham to King, 29 December 1800, at TNA, HO 42/41 fos. 208, 213–14, and HO 42/55 fos. 233–4 respectively.

Graham had, in February 1801 and prior to his appointment as Inspector, already reported on the hulks for the Home Office (see his report of 17 February 1801 at TNA, HO 42/61, fos. 156–7). As a consequence of Graham’s report, on 17 June 1801 Portland had laid proposed regulations ‘for the better care and management of the Convicts confined on board the Hulks at Portsmouth and Langstone Harbours’ before the Lords Commissioners of the Treasury, and these were approved on 24 August 1801 (see Vansittart to King, TNA, HO 42/57, fo. 197). On 26 August 1801 Graham had, at Pelham’s request, provided ‘an Estimate of the Expence of my proposed Establishment for the Convict Hulks at Portsmouth and Langston’, which he expected to come to £23,832 15s. 10d. (see Graham to King, TNA, HO 42/62, fos. 430–2). Though Graham was not officially appointed as Inspector of Hulks until 25 March 1802, he was present in Portsmouth in late December 1801 and reported on the fitting-out of vessels for the new system he would oversee (see, for instance, Graham to King, 9 and 10 December 1801, HO 42/62, fos. 581–2 and 584–5 respectively).

of the views which gave it birth, two points may afford some light: the one antecedent to the appointment; the other subsequent:—the person recommended for the office, and his conduct when invested with it.

The gentleman who comes out of the pocket is without dispute the friend of the wearer of the pocket out of which he comes.—What are his other titles? To me, who neither am known nor know, he is known by nothing but a name: nor even by name shall he be spoken of by me. In matters of this kind—where public money is thus disposed of—in my estimate at least, which never looks for any thing more than human in the bulk of men—not the receiver, but the donor—I had almost used another word—is to blame. What is on record—what is public—may be mentioned without reserve: and it is quite sufficient for the purpose. Lord Pelham, on coming into office, finds him a Police Magistrate, at £400 a year. By one of Lord Pelham’s two exertions, to this £400 is added another £100,<sup>198</sup> God knows why or wherefore: and for decency’s sake, and because it could not be done otherwise—the whole corps of the Police—(Magistrates I mean—for as to drudges who must attend, and must understand the business, [116–641<sup>r2</sup>] the case is different) the whole of the privileged order, indifferents and non-favourites together, share the boon with favourites. This not being yet sufficient for so much merit—for a gentleman whom the gentleman on t’other side of the wainscoat has the happiness to number among his friends—£350 a year is in this select instance added to it: and thus it is that substantial use is derived from the aërial labours of the well-meaning busy-bodies.

A gentleman, whose whole time has been bought already for the public, is thus twice over paid for it: paid under the old Act,<sup>199</sup> overpaid for self and C<sup>o</sup> by one of these two new Acts, over paid again by the other of these two new Acts<sup>200</sup>—by an Act made in the same breath—an Act made for the sole and separate use of this single gentleman. Two Acts made *uno flatu*<sup>201</sup> for one gentleman, both of them under Lord Pelham’s auspices: both of

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<sup>198</sup> For the Metropolitan Police Magistrates Act of 1802 see p. 000 n. above. The second ‘exertion’ was the Hulks Act of 1802.

<sup>199</sup> The Middlesex Justices Act of 1792 (32 Geo. III, c. 53) had provided for the establishment of seven police offices in the metropolitan parts of Middlesex and Surrey, in addition to the existing police office at Bow Street, and for three Justices of the Peace with an annual salary of £300 to be attached to each office.

<sup>200</sup> i.e. the Metropolitan Police Magistrates Act of 1802 and the Hulks Act of 1802 respectively.

<sup>201</sup> i.e. ‘in one breath’



them for a friend of the gentleman on t'other side the wainscoat. One to pay a gentleman a second time for business for which, in his own estimation, as proved by the very best evidence—his own acceptance—he had been paid enough already; another to call him off from that very business, pay and over-pay still continued. One for making the worthy Magistrate receive more money; the other for making him do less service. In these two Acts we see the two signs of life exhibited by Lord Pelham during an administration of |^^^| months:<sup>202</sup> two measures sanctioned each by an Act on purpose and the [116–642] two acts are these. Two Acts both of them to provide for one gentleman, a gentleman already provided for in a situation always besieged by candidates: an Act to encrease his recompense, the other to reduce his service.

But, Sir, what ground for all this? Is there to be no end of all this malice—of all these imputations—these uncandid, these envenomed, insinuations?

My Lord, my answer is as distinct as possible. Four features—four antecedent features—betray, even of themselves, the complexion of the business.

First, the existence of such an abuse—and for such a length of time—year after year—under the very *noses*—(the term is a coarse one—under the *eyes* I should have said, had gentlemen chosen to have eyes)—of such a pyramid of official personages as those whose duty it was to prevent it.

Secondly, the neglect—a neglect too indecorous to have been manifested without cogent reasons—the compleat neglect shewn to the only persons by whom the smallest wish to see it remedied had ever been manifested.

Thirdly, the total absence of all signs of displeasure—as well towards the persons by whose immediate misconduct the mischief had been brought about, as towards the perpetually silent and motionless official spectators, by whose connivance it had been fostered:—on the contrary—

Fourthly, the positive tokens of satisfaction given, by resorting to these very patrons and protectors of the [116–642<sup>r2</sup>] abuse, for the recommendation of the persons by whom

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<sup>202</sup> Bentham drafted this passage on 28 December 1802 (see UC cxvi. 593), which was almost seventeen months after Pelham had been appointed Home Secretary on 30 July 1801.

the semblance of a remedy was to be applied. The gentleman whose duty it had been—first under the Duke of Portland, then under Your Lordship—to have prevented the abuse—(I speak of the individual abuse—the barbarity and consequent mortality) to have prevented it by drying it up in its source—I mean the whole system of Hulk confinement—the gentleman who, to avoid preventing it, set aside two Acts of Parliament, by the Letter which the Duke was ill-advised enough to give auspices and signature<sup>203</sup>—this gentleman, instead of preventing the abuse, nurses it:—he nurses it for months and years: he nurses the mortality for a year and a quarter,<sup>204</sup> and I know not how much longer;—he nurses the source of it, under Your Lordship to this day. He nurses the abuse itself till it is ripe—ripe on the verge of universal rottenness—ripe by the rotting of the victims at a rate at which by this time they would have been more-than-half killed off—he keeps nursing it to this pitch of critical ripeness—when lo! by a misadventure, converted by his ingenuity into a lucky hit, an occasion turns up for recommending a friend to look at it:<sup>205</sup>—to look at it, and, on pretence of correcting it, to keep it uncorrected.

Thus, in an inferior hot-bed, an immature felon (I have heard it said) is nursed till he is become ripe: a felon worth but £10, till he is worth £40.<sup>206</sup> Those are pretty profits, fit for petty hands.

[116–643<sup>r1</sup>] £350 a year, a *douceur* for a gentleman—for the friend of the gentleman who does every thing—was not to be made up so easily: a hecatomb, and more than a hecatomb, of victims was to be sacrificed, before an offering could be raised worthy of the chosen priest, who was to stretch his hands over the altar, and make as if he were putting a period to the sacrifice.

In this place, truth compells me to acknowledge, proof that would be termed *legal* fails me: rumour—notoriety—whatsoever be the word—is in several points the only ground I can exhibit even so much as in the way of reference. I have no eye-witness to depose, that as often as a Noble Secretary has appeared to act, a gentleman on the other side the wainscoat has pulled the wires. Friendship between the gentleman who popp'd out

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<sup>203</sup> i.e. John King, whom Bentham regarded as the effective author of Portland's letter to the Treasury of 28 July 1800: see p. 000 n. above.

<sup>204</sup> [ANNOTATION TO BE FINALIZED.]

<sup>205</sup> i.e. the appointment of Graham as Inspector of Hulks in March 1802.

<sup>206</sup> [ANNOTATION TO BE FINALIZED].

of the pocket, and the gentleman out of whose pocket the other popped,<sup>207</sup> is a point not less difficult to prove, at least by the evidence of sense. The Noble Lord and the gentleman on the other side of the wainscoat could, either of them, by their evidence, put both points out of doubt. Fortunately or unfortunately, the favourite maxim about self-crimination and self-depredation, the maxim made to cover this and every thing else that ought to be disclosed, steps in and covers them:<sup>208</sup> so that on this occasion, as on all others, they may do exactly as they please. On these obscure and delicate points, circumstantial evidence, then, is the sole resort: and before the bar of the public at [116–643<sup>r2</sup>] least—not to speak of other bars—circumstantial evidence is not altogether without its weight. As to one point, then, does not the same wire which at one time pulled the hand of a Noble Duke, continue to pull the hand of his Noble successor, and always in the same oblique and tortuous line? The crowding plan—the plan so distinctly chalked out by the epistle from the Upper-floor to the under<sup>209</sup>—is it not pursued still without deviation, pursued in full view of the effects of it, by those who to pursue it, and pursue it with full effect, have nothing to do but to do nothing? Then again as to the fair side—the amiable—the friendly side of the business—I beg leave to ask—unless for a friend, a very particular friend indeed, is it in the nature of man thus—thus compleatly—to expose himself? I say *to expose himself*: but to shew how compleat the exposure is—and that on both sides—subsequent events will require to be called in—subsequent events which I now proceed to submit to a pair of Noble eyes on which they will make the same impression as all preceding ones. Yes, my Lord, subsequent facts, facts notorious and in direct proof—will manifest themselves, and in doing so will point backwards, and throw day light upon *motives*.

Theory has been spoken of—now comes experience:—duty has been spoken of—now comes performance. Even upon the face of the law, the duty is meagre and inefficient: and performance falls short even of the meagre scantling so carefully chalked [116–644<sup>r1</sup>] out and narrowed by the law. By the Act, at the commencement of every Session, this Report is to be made.<sup>210</sup> On the 16<sup>th</sup> of November commenced the first Session after the appointment. On the <sup>^^^</sup>211 of December the House adjourns—and no such Report has

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<sup>207</sup> i.e. Graham and King respectively.

<sup>208</sup> The legal maxim *nemo tenetur seipsum accusare*, i.e. ‘no one is compelled to accuse himself’.

<sup>209</sup> i.e. Portland’s letter to the Treasury of 14 October 1799: see p. 000 n. above.

<sup>210</sup> See the Hulks Act of 1802, § 2.

<sup>211</sup> Parliament was in recess from 29 December 1802 until 3 February 1803.

been made.<sup>212</sup> At the very outset, the duty is not done—no, not even that beggarly account of empty duty that has been made obligatory by the Act. When that which is made obligatory is left undone, can there be so much as a hope left for that which is left free? When that duty which is without expence is left undone, will that be done the expence of which, if repeated with a certain degree of frequency, would swallow up the only motive for acceptance?

How should any Report have been made? To be reported, something must have been done: to be reported as seen, something must have been looked at. This, which is what ought to have been done, is precisely what had been left undone.

Times prescribed for inspection by this nugatory Act—(nugatory or little better had it ever been executed) times *for* inspection once a quarter: times *of* actual inspection, a blank or what is next to it.

Of the three or four Hulk stations, the only two distant ones, one at Portsmouth, the other at Langston Harbour, four miles distant from the first, are all I have as yet enquired about: but these surely are sufficient.<sup>213</sup> One of them is that which, but for the Bodmin Jailor and M<sup>r</sup> Neild and Sir [116–644<sup>r2</sup>] Henry Mildmay, might have buried all its inhabitants before now:—the *La Fortunée*—the English Black Hole, now first known, but which ought to be had in everlasting remembrance.<sup>214</sup>

At what times or so much as time the new installed Hulk Inspector has inspected either of these Hulks, my authority has not informed me:<sup>215</sup> once in the three quarters instead of once in each quarter, once ‘at the least’, I take for granted: the pride of new-blown authority must have been weak indeed if it could not send gentlemen upon one installation progress, to sip the first sweets of office. During what space of time this quarterly Inspector of scenes of daily abomination has *never* visited them is a point I can

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<sup>212</sup> Graham presented his first report to Parliament on 4 February 1803 (*Journals of the House of Commons* (1688–1834), lviii. 124, 790–1), with Bentham being informed by a letter of the same day from James Mitchell, the Assistant Deliverer of the Vote at the House of Commons (*Correspondence (CW)*, vii. 197).

<sup>213</sup> In 1802 there were hulks stationed at Portsmouth, Langstone Harbour, and Woolwich, while the hulk establishment at Plymouth was closed down during that year.

<sup>214</sup> See pp. 000 above.

<sup>215</sup> See the anonymous letter of 26 December 1803 at p. 000 below.

speaking to with confidence: I say, then, not these six months:<sup>216</sup> so far at least as an untutored answer from a man of known intelligence and trustworthiness to a simply enquiring letter, the object of which was carefully and effectually concealed, is to be depended upon, in respect of a matter of fact thus simple. *What, Sir, has not Portsmouth, then, do you wish me to understand, been visited by the Inspector of Hulks in all this time? Is it that the Police Office could not spare him?* Oh no, my Lord, the Police Office spared him without difficulty: was it possible in the nature of things that a Police Office should not have spared him, should not have spared a gentleman, to whom, by so recent a manifestation of superior pleasure, his Majesty's Secretary of State had made it a matter of duty to go elsewhere?

[116–645<sup>r1</sup>] Yes, my Lord, there was inspection enough for Portsmouth, but there was none left for the Hulks. The gentleman, I have already said, had connections at Portsmouth: in that agreeable circumstance lay the convenience of the choice:<sup>217</sup> the prolific convenience which gave birth to the Act of Parliament—and through Parliament to the office. The gentleman had connections in Portsmouth: should some future Secretary be severe—in some contingent period of harsh discipline, under some Pharaoh that knew not Joseph,<sup>218</sup> should each quarterly visit be insisted upon, a persecuted Inspector—an

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<sup>216</sup> According to 'The Report of Aaron Graham, Esq. Inspector of Convicts in the River Thames and at Portsmouth', dated 4 February 1803, *Journals of the House of Commons* (1688–1834), lviii. 790–1 at 790, Graham 'went immediately' to Portsmouth after his appointment on 25 March 1802. There he oversaw the fitting out of H.M.S. *Captivity* and H.M.S. *Portland*, and their mooring at Portsmouth and Langstone Harbours respectively, in preparation for the alteration in the hulk establishment which took place on 1 April 1802, when the government took direct oversight of the hulks, their officers, and their guards, with only the convicts' clothing and victuals supplied by contract. Once this task had been completed, Graham 'made a Report thereof, and of all my other proceedings, to his Lordship'. He again visited the Portsmouth Hulks at the 'end of the Midsummer quarter' of 1802 and 'made another very full Report to Lord Pelham', before returning to Portsmouth at the end of September 1802. Graham acknowledged that he should, by the end of 1802, 'have made my next visit of enquiry, as directed by the Act of Parliament, but was prevented by indisposition, which, for several months past, has (with the exception of some short intervals) confined me to my room'. For Graham's private report to Pelham of 30 March 1802, and the returns and accounts of the Portsmouth and Langstone Harbour hulks for 1 April 1802 to 30 June 1802, see TNA, HO 42/65, fos. 78–9 and 2–58 respectively.

<sup>217</sup> According to *The Annual Biography and Obituary for the Year 1820*, iv. 402, Graham was born and educated in Gosport, on the opposite side of Portsmouth Harbour to Portsmouth itself.

<sup>218</sup> For the story of Joseph and Pharaoh see Genesis 40–50.

Inspector driven to his duty might, under favour of that convenience, take refuge in the bosom of his friends. Persecution or not persecution, these friends were to be and were inspected at any rate; inspected in person, let what would come to the *Police*: as to the Convicts, they were inspected by proxy, and their proxies whom they were saved the trouble of appointing were these convenient connexions.

Four miles further would have brought the Inspector to the Langston Hulk:<sup>219</sup> a few hundred yards would have been enough to bring him to the Portsmouth Hulk:<sup>220</sup> humanity, official duty, recent engagement—the positive injunction of an Act of Parliament—all together could not prevail upon the gentleman for these few hundred yards.

Suspicion, grounded solely upon theory, was enough to prompt enquiry, and, without disclosing the most distant hint of my object, I [116–645<sup>r2</sup>] penned the following Letter, and got it sent to Portsmouth, to a person whom correctness was known by long experience—<sup>221</sup>

Please leave space of two lines.

With the omission of an immaterial line or two, the answer was literally as follows<sup>222</sup>—

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<sup>219</sup> i.e. *La Fortunée*.

<sup>220</sup> i.e. the *Captivity*.

<sup>221</sup> In both the draft and the copy, a space has been left for the insertion of the letter, which was addressed to Henry Peake, who was master shipwright at Portsmouth 1799–1803. The letter has not been located.

<sup>222</sup> The original letter, with Bentham's pencil emendations corresponding to the version inserted here, written by Joseph Helby, shipwright, foreman of the Portsmouth Dockyard 1802–5, is at UC cxvi. 397:

‘Portsm<sup>h</sup> Dock Yard Dec<sup>r</sup> 26<sup>th</sup> 1802.

‘Sir,

‘Agreeable to direction received from M<sup>r</sup> Peake I have made the proposed inquiry and find there has been no regular inspection of Convicts either here or at Langston Harbour. M<sup>r</sup> Graham not having been on board either Hulk near six months: he was at Portsm<sup>h</sup> about three months since but he did not come on board the Hulk.

‘I cannot find any other person visits or inspects except the Capt<sup>n</sup> who has the Charge—you will have the goodness to acquaint me if this information is sufficient. I am with Compli<sup>mts</sup> of the Season most truly

‘yours Jos<sup>h</sup> Helby’.

For the layout of the letter here and in the corresponding footnote see the hard copy, p. 000.

Portsmouth Dec<sup>r</sup> 26 1802.

‘Sir

‘I have made the proposed enquiries and find there has been no regular Inspection of Convicts either here or at Langston Harbour. M<sup>r</sup> {the nominal Inspector}<sup>223</sup> not having been on board either Hulk near six months: he was at Portsmouth about three months since but did not come on board the Hulk.’

‘I cannot find any other person visits or inspects except the Captain who has the charge.’

[116–646<sup>r1</sup>] Such, as the Letter shews, has been the neglect. From misconduct the<sup>224</sup> eye turns naturally and not improperly to consequences. Strike out consequences—say that no evil consequences either have followed or are in a way to follow, every thing *almost* is as it should be.<sup>225</sup> The only practical inference is—that the place either ought never to have been created, or ought now to be abolished. Either it never had a use or the use it had is at an end.

But the neglect has *not* been without its consequences. I give a specimen—I can give no more. Strip them of nine-tenths of their abominations, the Hulks—Lord Pelham’s Hulks—Lord Pelham’s and M<sup>r</sup> ——’s<sup>226</sup> *Black Holes*—would in this Country and at this time of day be—what Bastiles were. Complaints, like men, escape out of them now and then—escape out of them through negligence.<sup>227</sup> The Letter of which the following is the extract, is from the least horrible of the two receptacles:<sup>228</sup> from that one, in which, upon an expected visit, some outsides were found fair: from that one which, not having destroyed

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<sup>223</sup> i.e. Graham.

<sup>224</sup> MS ‘they’. The text follows the draft at UC cxvi. 601 (31 December 1802).

<sup>225</sup> Bentham is echoing Blackstone’s use of this phrase: see p. 000 & n. above.

<sup>226</sup> Presumably King’s.

<sup>227</sup> Bentham presumably alludes to James Chapple’s letter of 24 February 1802: see p. 000 above.

<sup>228</sup> i.e. the *Captivity*.

so many as an eighth of its inhabitants in a year, was and perhaps is *Montpelier* to the other.<sup>229</sup> A letter from the Hulks! says somebody: a notable piece of evidence indeed! and by whom, pray, and to whom, written, and for what purpose? By one of the imprisoned wretches, to a friend in a situation but too similar—a prisoner in a Jail in one of the distant provinces. Not official, my Lord—not a Report this, it must be confessed. Under Your [116–646r<sup>2</sup>] Lordship’s auspices, it is not the custom for gentlemen in office to make Reports: especially when paid for it, and when Parliament has made it their duty in express words. Not official, certainly, my Lord: gentlemen, if they did make Reports, would not complain of their own acts.

Omitting the effusions of the heart—the little tokens of remembrance—from one poor creature to another—but especially, and most carefully, omitting the names—I transcribe *verbatim* whatever bears reference to the present purpose. *Verbatim*, I say, my Lord: *literatim* not. *Spelling so quizzable, how could facts be credible?* Of this argument, the best the case admits of—I have deprived, defrauded, gentlemen and Noble Lords. Alas, my Lord, how many hundreds of poor wretches had been in this world instead of another—had been comparatively happy—had been comparatively pure—if no worse logic than this had passed *from* gentlemen on t’other side the wainscoat, had passed upon Noble Lords?

11<sup>th</sup> October 1802<sup>230</sup>

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<sup>229</sup> The city of Montpellier was reckoned to be the healthiest and most salubrious location in France: see, for instance, Daniel Defoe, *A Tour Through the Island of Great Britain*, 4 vols., Dublin, 1779, i. 31 and iv. 63, respectively describing Bury St Edmunds as ‘the Montpelier of Suffolk, and even of England’ and the village of Inveresk as ‘the Montpelier of Scotland’.

<sup>230</sup> Samuel Hadfield (b. c. 1762) had been convicted at the Chester assizes on 8 July 1801 of petty larceny, sentenced to seven years’ transportation, and received on board the *Captivity* hulk on 18 February 1802, where he remained until his discharge on 14 July 1808: see TNA, HO 9/8. fo. 28. Bentham’s copy of Hadfield’s letter, ‘directed to Bagot Ball Chester Castle Cheshire or Countay of Chester’, is at BL Add. MS 33,543, fos. 644–5, and is docketed by Bentham: ‘1802 Oct. Panopt. on the Captivity Hulk Portsmouth to Hardships. Copy by H.K. From the original in the hands of James Neild Esq<sup>re</sup>.’ H.K. was John Herbert Koe (1783–1860), who had become Bentham’s secretary in about 1800. On 17 February 1803 Neild sent Bentham a letter dated 24 January 1803 written by George Lee, a convict on the *Portland* at Langstone Harbour, to Sir Henry Mildmay, about conditions on board the hulk. Lee’s original letter is at UC cxvii. 252, and a partial copy at BL Add. MS 33,544, fos. 14–5. Sir John Carter (1741–1808), Mayor of Portsmouth, told Mildmay in



‘.^.^ I promised to write to you as soon as I came here, but could not so soon as I wished to do, for when I came here I was robbed of all my papers and pens and all that I had<sup>y</sup> .^.^ About 500 Convicts was drafted [116–647<sup>r1</sup>] on board his Majesty’s Ship *Glatton* for New South Wales, a five months back:<sup>231</sup> and I wish it had been my lot to have gone with them, for this place is a very bad one. We are *double ironed*, and work hard: and *so close shut down betwixt decks* when from work, *and so many and so close together, that we have a sad stinking place*: and what is worse, *we cannot keep ourselves clean*. The men are very lousy, *and are eat quite raw with lice*: and our *provisions are so bad, that the men break out all over sores, and look so bad and so yellow, that you would not take them to be Englishmen at all; nay you would be surprized to see them; for I was when I came first to this place. They rob one another*; and write to one another’s friends to draw money of them in their names: and they served me so; and have kept me quite without money, and am without yet. I had some old Letters by me, which they robbed me of when I came here at first: but I hope to get some {i:e: money?} soon, and I think the rogues that have done it are gone to the Bay {Botany Bay}.

<sup>y</sup> He does not say by whom robbed, whether by his fellow prisoners or by their Keepers. But if not by the Keepers, but only by the prisoners, what, even on that supposition, must be the Keepers? Such care! such custody! Such crimes, such oppressions, close to them, all round them and no redress! In a Panopticon Penitentiary House could such [116–647<sup>r1</sup>] things be? Could even the gentleman on the other side of the wainscoat find face to say as much?—to whisper as much even in the well-prepared ear of his Noble superior in Office?

‘Our victuals would do in quantity: but the quality is so bad, and the cooking so nasty, that nothing but clemming {starving} can force a man to eat it. We have meat for dinner one day, and bread and cheese the other: boiled barley for breakfast and burgen for supper: neither good nor clean: [116–647<sup>r2</sup>] so that they that can get things eat but little of

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a letter of 13 February 1803 (see UC cxvii. 253) that Lee’s account was true, and it had ‘been sent to Lord Pelham & so many others’. On 7 March 1803 Bentham told Samuel Romilly that Lee and Carter’s letters constituted ‘direct evidence of Lord Pelham’s having notice’ of conditions on the hulks at Portsmouth and Woolwich: see *Correspondence*, vii. 208–9.

<sup>231</sup> BL Add. MS 33,543, fo. 645 ‘a five weeks back’. H.M.S. *Glatton* departed from Portsmouth for New South Wales on 23 September 1802 with approximately 400 convicts.

the ship's allowance. This is a very bad place .^.^ it<sup>232</sup> is impossible to live here long.'

Well, Sir, but this correspondent of yours, who is he? None of mine, my Lord: yet not the less but the more credible in his undesigned and artless tale. Had the person written to been a person from whose interposition any the faintest hope of relief could have been conceived, motives for exaggeration at least, if not for absolute untruth, might have been imputed, and not altogether without cause. The fact is—written to a sharer though not companion in affliction, as above described, it fell by mere accident, though not without sufficient authentication, into the hands of a gentleman<sup>233</sup> by whose permission the copy I have (the original having been also in my hands) was obtained.

But his name, Sir?—No, my Lord: there Your Lordship will have the goodness to excuse me. I have read Don Quixote, my Lord: I will not follow his example.<sup>234</sup> The scourge of the tyrant shall not be brought down with redoubled force, by an interference so powerless on my part, so inefficacious, so much worse than inefficacious, elsewhere. To a Committee of the House of Commons .^.^ Yes, my Lord, at any time: not to his Majesty's Secretary of State, so long as Lord Pelham continues his Majesty's Secretary of State—least of all to the gentleman behind the wainscoat, so long as he continues on the other side of the wainscoat. Of frank disclosure to Lord Pelham, what could be expected to be the consequence? Let<sup>235</sup> experience—recent experience—speak. To the Inspector, an additional hundred a year to quicken his exertions; perhaps an Assistant or Deputy, to support him under them. As to the wretched letter-writer, an additional port-hole stopt up and the repose of office might be made secure for ever against all repetition of his impertinence.

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<sup>232</sup> BL Add. MS 33,543, fo. 645 'place but I hear a good account of botany bay and wish that I might go soon for it'.

<sup>233</sup> i.e. James Neild.

<sup>234</sup> Don Quixote's actual name was Alonso Quixano (or Quijano in modern Spanish): see *The Life and Exploits of the Ingenious Gentleman Don Quixote de la Mancha*. Translated from the Original Spanish of Miguel Cervantes de Saavedra. By Charles Jarvis, Esq., 2 vols., London, 1742, i. 46, first published in Spain as *El Ingenioso Hidalgo Don Quixote de la Mancha* in two volumes in 1605 and 1615 respectively.

[ANNOTATION TO BE FINALIZED.]

<sup>235</sup> The remainder of the copy is missing. The text follows the draft at UC cxvi. 603 (31 December 1802).