

EMIGRATION TO BRITISH NORTH AMERICA
 UNDER THE EARLY PASSENGER ACTS.¹
 1803-1842.

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Read 19th December 1929.

ABOUT the middle of the eighteenth century began the movement westward of the first British emigrants to those districts, once the possession of France, destined to be the nucleus of British North America. Driven from their homes by the force of economic pressure and political unrest, from the western harbours of Ireland, and more particularly from Scotland, set out small parties of farmers and labourers—the advance guard of the thousands who were to follow. Nova Scotia was first their goal, and by the shore at Pictou there stands to-day the statue of a Highlander in kilt and philabeg, commemorating the arrival of one of the most important of these migrations, a party of two hundred Highlanders who sailed from Lochbroom in the *Hector* in 1773. This expedition has also left its traces in the records of the English treasury; so alarmed were the government by the drain of men from the land that orders were issued to the Commissioners of Customs in Scotland to furnish an account of all emigrants, with full details as to their age, occupation, and reason for leaving their country.² In this way a watchful eye could be kept on a movement which profoundly disturbed the rulers of the time, for during the eighteenth century and on into the nineteenth

¹ From a thesis approved for the degree of Master of Arts in the University of London, July 1929.

² Treasury Records, Public Record Office [hereafter abbreviated as T.] 17/20, p. 478. Treasury to Commissioners of Customs, Scotland, Dec. 8th, 1773.

it was considered that the country was the weaker for every emigrant who left her shores. The government, therefore, was anxious to check the movement; as a result the laws forbidding the emigration of artisans¹ were passed and later a proclamation was issued in Ireland forbidding anyone, no matter what his occupation, to leave the country without first obtaining permission from the Privy Council.² There was little reason, however, for the alarm during the latter half of the eighteenth century, for the long period of warfare practically put a stop to emigration. With the opening of the new century, after a succession of bad harvests from 1799-1801,³ a fresh period of activity begins, and in 1801 both in Ireland and Scotland there was renewed anxiety amongst those in authority.

The Governor-General of Ireland, Lord Cornwallis, was so perturbed by the thousand and more applications for leave to emigrate lying before the Privy Council, that he communicated his alarm to the Home Office.⁴ The Lord-Advocate of Scotland, Charles Hope, also sent reports of an extensive emigration from the Highlands.⁵ But it is most interesting to note that both these men, placed in the highest official position, were troubled by something more than the economic loss to the country entailed by emigration; apart from any official duty, their own personal sympathies were touched and their concern aroused by the personal sufferings of the unhappy emigrants. No doubt the excessive crowding of

¹ 5 Geo. I, c. 27; 23 Geo. II, c. 13; 14 Geo. III, c. 71; 21 Geo. III, c. 3; 22 Geo. III, c. 60; 25 Geo. III, c. 67; 26 Geo. III, c. 89.

² Colonial Office Records, Public Record Office (hereafter cited as C.O.), 42/176. W. Gregory to H. Goulburn, Jan. 9th, 1817, v. also 1/274, 1801, for example of permission granted.

³ W. L. Mathieson, *England in Transition*, 1920, p. 86, and A. Irvine, *An Enquiry into the Causes and Effects of Emigration from the Highlands and W. Islands of Scotland*, 1802, p. 79.

⁴ Home Office Records, Public Record Office [hereafter cited as H.O.], 100/105. Cornwallis to Portland, April 16th, 1801.

⁵ H.O., 102/18. Hope to Portland, June 2nd, 1801.

the Irish emigrant ships and the consequent mortality were generally known and so,¹ as well as ordering the Customs officials to do all in their power to enforce the laws against the emigration of artisans, "as it may happen that in some instances captains of vessels without regard to the health of the passengers may take a greater number on board than can be properly accommodated and may not lay in a sufficient stock of provisions for the support of the passengers." Lord Cornwallis orders that they are not to allow a greater number of emigrants to embark than in the proportion of one to every seven tons of the registered burthen of the ship.² Charles Hope, "knowing well the hardships which these poor people often suffer on the passage," and moved by the same kindly impulse, issued orders of very much the same nature in Scotland, though in this case the Customs officials had to see that a sufficient quantity of water and provisions were on board.³ But as this order was disregarded by merchants of Greenock, Hope wrote to the Home Office to enquire whether such precautions should be enforced. He received cold comfort from Lord Portland—nothing but a tribute to his "good intentions." The Law Officers had been consulted and gave it as their opinion that there was no legal authority whatsoever for the Customs officials to take such steps.⁴ Without such legal authority interference was hopeless, as is shown by a complaint of the officers at Fort William the next year stating that certain Masters refused to "submit themselves, as they call it, to nice and troublesome inspection."⁵ Such legal authority the Home Office did not stir itself to obtain; it was to another office, with the help of a very powerful ally and other

¹ *Times*, May 17th, 1803. *Caledonian Mercury*, July 4th, 1803.

² H.O., 100/105. Cornwallis to Commissioners of Customs, April 22nd, 1801.

³ H.O., 102/18. Hope to Portland, June 2nd, 1801.

⁴ H.O., 103/3. Portland to Hope, July 26th, 1801.

⁵ H.O., 42/63. Collector and Controller, Fort William, to Commissioners of Customs, Edinburgh, May 24th, 1802.

philanthropists like himself, that Charles Hope was to owe his final triumph in the emigrants' cause—the Passenger Act of 1803.

In his attempt to safeguard those emigrating from the Highlands, Hope's most powerful ally was the Royal Highland Society of Scotland, of which he himself had been a member since 1793.¹ Naturally the "depopulation" of the Highlands was a question of great moment to members of the Society and as a result of the increased emigration of 1801, in July of that year a special committee, afterwards a standing committee, was appointed to enquire into the causes and conditions of the exodus and to suggest a remedy. Through the autumn and early winter which followed the members of this committee under Colin Mackenzie, Convener, must have worked indefatigably collecting information, and by January 12th, 1802, their first report was ready to lay before the General Meeting of the Society, held in the Highland Society House, Edinburgh, the Rt. Hon. the Earl of Eglinton in the chair. After speeches by the Lord Chief Baron, Robert Dundas, and the Hon. Mr. Erskine, whose sympathetic interest in the unfortunate lot of the emigrant inspired a well-known poem,² unanimous approval was voted by the hundred members present.³

In this report the motives of the Society in suggesting interference in the emigrant traffic are clearly to be discerned, and it is of interest to know what these motives were. After a few introductory remarks on the position in 1801 and the causes of emigration comes the first expression of opinion—the "strongest regret" of the committee had been excited by "circumstances of suffer-

¹ H. Mackenzie, *An Account of the Institution and Principal Proceedings of the Highland Society of Scotland*, Edinburgh, 1799, Vol. II, Appendix, p. 29.

² Hon. H. Erskine, *The Emigrant*, 1795.

³ Sederunt Book, Highland Society of Scotland, Edinburgh.

ing and distress during the passage, which are shocking to humanity." As a philanthropic society, the desire to put an end to such a scandal seems to be the primary motive, but, as a secondary motive, there was also the desire to check emigration.

Copies of the Report were ordered to be sent to the Chancellor of the Exchequer, the Secretary of State and Henry Dundas.¹ Its receipt at the Home Office was politely acknowledged by Lord Pelham² but no further action was taken; Dundas as a persistent foe of emigration³ supported its recommendations—but afterwards;⁴ it was the Chancellor of the Exchequer, Henry Addington, and through him the Treasury, who alone took immediate action.

In accordance with the order of 1773⁵ letters were received from the Commissioners of Customs, Scotland, giving particulars of the emigrations that year.⁶ Addington was present when the most important communication concerning the *Sarah* and the *Dove*, also mentioned in the Report of the Highland Society, was read and communicated with the Home Office on the subject in 1802.⁷ Yet again that year the attention of the department was challenged, for the Highland Society followed up their Report of January by another in June.⁸

Consequently, the next month when the Treasury sent northwards the famous road-engineer, Thomas Telford, to survey the coasts and central Highlands of Scotland,

¹ H. Mackenzie, *op. cit.*, Vol. II, Introduction, p. x.

² H.O., 103/3. Pelham to W. Macdonald, Sec. of Highland Society, Feb. 9th, 1802.

³ Auckland Papers, Additional MS. British Museum, No. 34, 412 f., 352, *op. cit.*, Dundas to Auckland, Sept. 5th, 1775.

⁴ *Edinburgh Advertiser*, June 8th, 1803.

⁵ T., 17/20, *op. cit.*

⁶ T., 1/1583, of 1801. T., 1/1736 of 1801 and enclosure: T., 1/3192 of 1801 (to be found with T., 1/3667 of 1801). See also Minutes of Treasury Board. T., 29/77, pp. 415 and 427, and T., 29/78, p. 59.

⁷ H.O., 42/63. H. Addington to John King, June 16th, 1802.

⁸ H. Mackenzie, *op. cit.*, Vol. II, Introduction, p. x.

he was instructed amongst other things to ascertain the causes of emigration and to suggest a remedy.¹ His Report² Addington brought before the House³ in April, 1803, and it was he who moved for the appointment of a select committee to consider it.⁴ This committee included Charles Hope, Wilberforce, Sir Robert Peel, Addington himself and the chairman, Isaac Hawkins Browne, while of twenty-three members eight were members of the Highland Society.⁵ Appointed to consider the condition of the Highlands and Telford's plan for opening up communications by the building of roads, the humanitarian feeling of such members, already pledged to the cause of philanthropy, was roused by what was comparatively a side issue and hurriedly they issued a preliminary report. "Circumstances of distress shocking to humanity"⁶ on board emigrant vessels had been revealed; the committee urged that immediate legislative action should be taken.

What evidence was it that had so shocked the members of this committee? The minutes are not given—only a few extracts from that most important Report from the Highland Society of January 12th, 1802; we know, however, that the whole report was before them; and it may be read at Edinburgh; we know that witnesses were summoned both from Scotland and from Ireland⁷ and something of what they told may be read in the newspapers; the Treasury records fill out details and so it is possible to reconstruct the story that the committee heard. It begins in the year 1773 when the *Hector* sailed to Pictou, the year when first the Highlanders left their

¹ T., 17/27. N. Vansittart to Thomas Telford, July 1st, 1802.

² *Parliamentary Papers* [hereafter *P.P.*], 1802-3, IV, 80, p. 1.

³ *Edinburgh Advertiser*, April 5th, 1803.

⁴ *Ib.*, April 22nd.

⁵ *Journal of the House of Commons* [hereafter *J.H.C.*], 1803, p. 1002.

⁶ *P.P.*, 1802-3, IV, 80, p. 7.

⁷ *Caledonian Mercury*, July 4th, 1803.

homes in great numbers. That year there sailed to North Carolina a ship of 300 tons carrying 450 passengers, 450 men, women and children herded into a space between decks that cannot have been much larger than 60 feet \times 18 feet \times 6 feet,¹ an average of just over two square feet each.² For twelve weeks and three days they endured ; to quench their intolerable thirst, which was aggravated by the closeness of their quarters, a daily ration of salt meat and the rigours of sea-sickness, they were only allowed one pint of water every twenty-four hours and this foul and brackish from casks previously used in the tobacco and indigo trade. No wonder dysentery set in and of the twenty-five who were without berths at the commencement of the voyage, twenty-three obtained a place to lie by the deaths of fellow sufferers.³ On a ship that sailed from Skye in 1791 there was "hardly room for the emigrants to stretch themselves," while "it was scarcely possible to creep into the berths," 18 inches wide and 2 feet high, without any allowance for the space taken by bedding. Some, more fortunate, obtained a berth high enough to allow them the luxury of being able to turn on their side and lean on their elbow. And this was in the dark 'tween decks only ventilated by the two hatches, open if fine weather, closely battened down if stormy ! And a slave by law was ensured a berth at least 4 feet 4 inches in height !⁴ From Ireland, on the authority of "a most respectable American gentleman" examined as a witness by the committee, came a tale even more revolting. A year or two before a ship had sailed from Ireland with 700 souls on board ; when she arrived at New York 270 remained alive. The ship was a very charnel house ; thirty or

¹ C.O., 384/32. Plan of ship by Robert Low.

² On two slavers examined by Clarkson the average space for each slave was 2 sq. ft. and 4 sq. ft., *v. R. Coupland, Wilberforce, 1923, p. 101.*

³ P.P., 1802-3, IV, 80, p. 7.

⁴ Sederunt Book, Highland Society of Scotland, Report of Jan. 12th, 1802.

forty dead bodies lay in a state of putrefaction upon the deck for the miserable survivors were unable to summon strength to throw them overboard. Hurriedly the authorities put vessel and crew in quarantine—but too late. Several of the Customs officers, magistrates and doctors who had already boarded the ship caught the infection and died. It seems almost incredible that over 60 per cent. of British emigrants should have died on one ship, yet on the authority of Charles Hope we know that these statistics were proved to the satisfaction of the Parliamentary Committee.¹ Humanitarian feeling in the country had been already roused by the horrors suffered by the negro slaves and yet the average death-rate on the slavers was between 5 and 10 per cent.² It was high time public opinion was enlightened on the worse horrors suffered by the emigrant. That conditions were worse was systematically proved by the Highland Society in the case of two vessels, the *Sarah* and the *Dove* which sailed from Fort William in June 1801, bound for Pictou, Nova Scotia.

Four ships—two from Isle Martin and two from Fort William³—left the Highlands that summer all freighted by an active passenger agent, George Dunoon, who apparently enticed the ignorant Highlanders by accounts of the wonders of the new land where there grew a tree which would yield them fuel and soap and sugar.⁴ The *Sarah*, of Liverpool, Daniel Wright master, was a ship of 372½ tons and by the list of passengers certified by Campbell (the Collector) and the Comptroller at Fort William on July 20th there were on board 206 full passengers over 16 years, 144 children and 8 infants—a

¹ *Caledonian Mercury*, July 9th, 1803. Lord Advocate's speech to the Highland Society.

² R. Coupland, *Wilberforce*, 1923, p. 109. Evidence of Liverpool merchants before the House of Commons in 1788.

³ *P.P.*, 1802-3, IV, 80, Appendix, p. 12.

⁴ G. Patterson, *A History of the County of Pictou*, Montreal, 1877, p. 226.

total of 368—chiefly small farmers and labourers with their families, of the clans of McKay, McKenzie, Frazer, Cameron, McGillivray, McDonald, McLeod and McLean and drawn from parishes in Inverness-shire and Perthshire. The *Dove* of Aberdeen, William Crane master, was a ship of 186½ tons and carried 227 passengers.¹ The overcrowding on board must have been notorious in the district, for the sheriff-substitute of W. Inverness visited the ships and gives his testimony as well as Campbell,² and what they saw was not the worst. In all probability after their clearance people followed the vessels in small boats and went on board on the passage to the Sound of Mull, so that the Highland Society were satisfied that there must have been 700 on board the two vessels and that to accommodate them a third row of berths was put in addition to the two seen by Campbell.³ Now it is important to realise that at this time the slave trade was regulated by very definite rules. Wilberforce, from the first, had nailed his flag to total abolition, but emphasis is rarely laid on the fact that as early as 1788 another had attempted to remedy the worst conditions of "The Trade" by securing Parliamentary regulation. The member for Oxford University, Sir William Dolben, had been duly horrified by a visit to a slave ship in the Thames when he had seen the arrangements for packing the negroes "like books on shelves." The outcome of his visit was an Act which was successfully pushed through both houses owing to the determined support of Pitt,

¹ T., 1/3193, at 1801 (in with No. 3667 of 1801). List of passengers July 20th, 1801, v. also H.O., 102/18. Ditto. The lists of passengers on emigrant ships have for the most part been destroyed, but these happen to be preserved because enclosed in a letter from the Home Office, to whom they had been referred, and by whom they were returned to the Treasury with the note that there was no legal remedy. T., 1/3667 of 1801, J. King to N. Vansittart, Aug. 19th, 1801.

² R. Brown, *Strictures and Remarks on the Earl of Selkirk's Observations on the Present State of the Highlands of Scotland*, Edinburgh, 1806, p. 7.

³ Sederunt Book of Highland Society, *op. cit.*

in the face even of his own Lord Chancellor, who stigmatised it as the result of "a five days fit of philanthropy."¹ By Dolben's Act² five slaves were allowed to be carried for every three tons of the first 201 tons registered burthen, and in computing the proportion for the remainder of the tonnage various complicated regulations regarding the allowance to be made for children were laid down. The Highland Society in their report give minute arithmetical calculations, applying these rules to the number of adults and children on board the *Sarah* and the *Dove*, with startling results. If subjected to Dolben's Act these vessels would have carried between them 489 slaves; instead they carried 700 emigrants!

In January 1802, when the report was written, the sequel could not be told, but the next year the committee must have known it, for the news was widespread in the Highlands. It was what might have been expected. The minister of Ranoch³ and the sheriff-substitute of W. Inverness-shire⁴ unite in estimating that over 50 passengers died on board one of the vessels, probably the *Sarah*, and the former adds "this is shocking to humanity and deserves the serious consideration of the administration of the country." The story of these ships and the misfortunes of their passengers was so striking that in Nova Scotia it seems to have been handed down as a kind of legend. Patterson, a minister in Nova Scotia, who writes seventy years later from records which he confesses are scanty and from information gathered from the reminiscences of the oldest emigrants, gives the story, inaccurate as to details, but correct in essence.⁵ The number on the *Sarah* is stated to be 700—manifestly impossible—the name of the *Dove* has been altered

¹ R. Coupland, *op. cit.*, pp. 109-111.

² 28 Geo. III, c. 54. Re-enacted yearly till 1798, 38 Geo. III, c. 88, the Act in force in 1803.

³ A. Irvine, *op. cit.*, p. 67.

⁴ R. Brown, *op. cit.*, p. 7.

⁵ G. Patterson, *op. cit.*, p. 226.

by hearsay to *Pigeon*, but his testimony is the same as the others concerning the number of deaths, and he adds that they were due to the ravages of small-pox and whooping-cough, aggravated, of course, by the confined quarters. It seems, then, that roughly 14 per cent. of the emigrants on board the *Sarah* died—again well above the average death-rate on the Middle Passage. With good reason might the men who collected these statistics, though disclaiming all intention of “degrading their countrymen by general comparison,” demand at the very least the same protection for their fellow-countrymen as for the negro slave, on the grounds that each in his ignorance and his helplessness was unable to protect himself.¹

It is clear that these appalling revelations, as well they might, made a deep impression on the committee. They postponed all consideration of the measures of economic development to check emigration suggested by Telford and the Highland Society and on May 17th, 1803,² well within a month from their first appointment, so quickly had a decision been reached, the chairman, Isaac Hawkins Browne, laid two resolutions³ before Parliament. The first was that it was the opinion of the committee that great distress and hardship had been suffered on account of the crowded state of emigrant vessels and in various other respects, and the second that it was expedient to regulate the vessels carrying passengers from the United Kingdom “with respect to the number of passengers which they shall be allowed to take on board in proportion to the tonnage of such vessels, as well as with respect to the provision of proper necessities for the voyage.” Hawkins Browne urged the attention of Parliament and seems to have been so active in the interests of the Highlands that the thanks of the

¹ Sederunt Book, Highland Society, *op. cit.*

² *Times*, May 18th, 1803, p. 2a. ³ *P.P.*, 1802-3, IV, 80, pp. 4 and 5.

Highland Society (of which he had been made an honorary member in 1788) were voted to him.¹

After Hawkins Browne had laid the two resolutions of the committee before Parliament leave was obtained to bring in a Bill. This had been already prepared by Charles Hope² on the basis of suggestions made by the Highland Society,³ so the next day Hawkins Browne was able to move the first reading. Now was the time for opposition to raise its head—but there was none. This is in strange contrast to the first of other series of social reforms in the nineteenth century when battle raged fiercely from the beginning, and Mr. Johnson, following the general rule, leaps to the conclusion that the Act of 1803 was passed only after great difficulty.⁴ Here he is mistaken. Of course it would have been very difficult to argue that the protection given to a slave should not be extended to free-born British subjects, but there are two particular reasons why this Bill passed so easily. In the first place no great vested interest as that in the slave trade already existed which would in consequence suffer. The owners of the small ships from Scotland and Ireland, and the unscrupulous agents who made a living by a commission⁵ on the number they persuaded to take passage, were few in number and not powerful enough to raise protest. When, after the Napoleonic Wars, the emigrant traffic was so great that many a rich living was made from its proceeds, protest against regulation was loud enough, but that time had not yet come. Then, secondly, members of Parliament and the country in

¹ *Caledonian Mercury*, June 30th, 1803.

² *Ibid.*, July 8th, 1803.

³ Sederunt Book, Highland Society of Scotland, Report of Jan. 12th, 1802.

⁴ S. Johnson, *Emigration from the United Kingdom to North America, 1763-1912* (1913), p. 102.

⁵ Records of the Board of Trade, in Public Record Office, 1st Series, Vol. 22. A long and most interesting paper on emigration from the Highlands by Mr. James Grant of Redcastle, one of the witnesses before the Parliamentary Committee of 1803. It is forwarded by C. F. Greville, April 2nd, 1803.

general had matters of far greater moment in mind, concerned, as they were, with the question of the renewal of the War with France.

The regulations laid down by this first Passenger Act¹ were detailed and comprehensive. Charles Hope had taken four suggestions put forward in the Report of the Highland Society as the basis of the measure, but after his drafting and in the course of the Bill through Parliament, alterations in detail were made. The first principle was to limit the number of passengers in proportion to tonnage. The Act stipulated that the proportion should be one person, including the crew, for every two tons registered burthen—a more generous allowance than the Highland Society suggested, for they did not go beyond asking for emigrants the most favourable interpretation of Dolben's Act. The second principle was to secure an adequate supply of water and provisions. It is amusing to find that the paternal care of the Highland Society went so far that they suggested that barley broth should be provided for the emigrants, and an allowance of spirit to improve the water when it became brackish. Although the Act did not insist on such comforts, a more generous supply of water than that suggested by the Society was demanded—one gallon a day for each adult and child instead of a Scotch pint. The allowance of beef was cut down from 1 lb. to $\frac{1}{2}$ lb. per day for each adult and child, but that of $1\frac{1}{2}$ lb. of oatmeal and biscuit and $\frac{1}{2}$ lb. of molasses was left unaltered. In addition the Act insisted that these supplies must be sufficient for a twelve weeks' voyage. Owing to the greater amount of space allowed no regulation was made regarding the size of berths, which the Highland Society thought necessary, but provision was made in accordance with their suggestion that the bedding was to be aired on deck each day, the vessel fumigated with vinegar twice a week and that

¹ *Edinburgh Advertiser*, June 8th, 1803. 43 Geo. III, c. 56.

vessels carrying more than 50 passengers were to be provided with a surgeon and medicine chest. There followed minor regulations and measures to secure the enforcement of the Act; a muster roll was to be made and checked before the vessel sailed by an officer of the Customs and a justice of the peace, bond was to be given by the master that the vessel was seaworthy and that the passengers should be duly delivered, officers of ships of war were empowered to search ships at sea and send them to port if the regulations were not complied with and a scale of fines was set forth to be exacted for the evasion of the different clauses.

Steps were quickly taken to enforce the measure before the migration season for that year was over. Four days after the Act became law, Nicholas Vansittart, one of the Secretaries at the Treasury, and also a member of the Highland Society and of the Parliamentary Committee¹ which had brought the question before Parliament, wrote to the Commissioners of the Customs in Scotland by command of the Lords Commissioner desiring that the speediest measures might be taken for carrying the law into effect.² The same day news of the Act had already reached the Board in Edinburgh, who at once gave orders to their solicitor to prepare forms of the bonds to be taken and also for abstracts to be printed and sent to the officers at the ports³ and also to the newspapers.⁴ They also wrote to the Treasury to ask that one of their cutters might be relieved from the service of the navy to enforce the law⁵ and so much extra work was entailed at their office that later in the year they wish to appoint extra clerks, for the poor man

¹ *J.H.C.*, 1803, p. 1002, and H. Mackenzie, *op. cit.*, Vol. II, Appendix, p. 42.

² Minutes of the Scottish Board of Customs, 1803-4, p. 45, July 4th, Custom House, London. [Hereafter cited as C.H.]

³ *Ib.*, p. 41, June 28th.

⁴ *Caledonian Mercury*, July 7th, 1803.

⁵ *Ib.*, p. 44, June 30th.

employed to copy the lists of emigrants, now again required, was quite worn out by his labours.¹

The important increase in the number of emigrants which marked the year 1801, had continued during 1802² and reached its climax in 1803 when the Colonial Office was at last persuaded to give some assistance to those projects for emigration which the Treasury, won over by humanitarian appeal, had lent its aid indirectly to check. In that year three important settlements in Canada were founded by the grant of land to three Canadian pioneers, Alexander Macdonnell,³ Roman Catholic chaplain of the Glengarry Fencible Regiment, Lord Selkirk,⁴ a prominent Highland noble, and Col. Thomas Talbot,⁵ an Irishman of rank who had served under Lt.-Governor Simcoe in Upper Canada. The Talbot settlement developed gradually in later years, but there was in 1803 an important exodus to the new Glengarry in Upper Canada as well as to Lord Selkirk's settlement on Prince Edward Island, and so it is no wonder that the Customs officials were busily employed. But did not the Passenger Act if rigidly enforced tend to check emigration by increasing the cost of the passage? As this was to be the chief ground of complaint against the humanitarian policy, this question is a most important one to answer.

Lord Selkirk, that great pioneer in emigration, is the first to afford evidence. In his *Observations on the Present State of the Highlands of Scotland*, written in 1805, he gives a most scathing criticism of the three reports of the Highland Society and of the terms of the Act.⁶ It is ridiculous to suppose that accounts of hardships are

¹ *Ib.*, p. 158.

² R. Brown, *op. cit.* Table given in Appendix.

³ C.O., 42/162. Macdonnell's Memorial, July 10th, 1815. C.O., 42/360, *ib.*, 1817.

⁴ Chester Martin, *Lord Selkirk's Work in Canada*, 1916, pp. 20 ff.

⁵ C.O., Ermatinger, *The Talbot Régime*. St. Thomas, 1904.

⁶ Lord Selkirk, *Observations on the Present State of the Highlands of Scotland*, 1805, pp. 136-54.

prevented from being sent home, for is there not a Post Office? The reports of imminent depopulation come from an untrustworthy source, men interested themselves in the kelp industry; it is extravagance to say that emigrants are on the same footing as slaves; concerning abuses in 1801 the Society base their accusation on hearsay only, and in 1791, while "it is evident that the ship referred to was too much crowded to be comfortable," the result was merely that the emigrants did not wish to sail again when the vessel put back after twelve days at sea, "a consequence very likely among people who for the first time in their lives were heartily sea-sick." It seems unbelievable that a philanthropist, as Lord Selkirk undoubtedly was, should with a poor jest dismiss such a flagrant case, but so great was his enthusiasm for emigration that he was blind to all other considerations.

Selkirk goes on to criticise the regulations concerning food as absurd, points out that the proportion to tonnage is higher than on transports where only one and a half tons are allowed to each grown man, and though respectfully paying tribute to the general work of the Highland Society, of which he himself was a member, he rounds off his attack by expressing the opinion that in this case self-interest in preventing emigration, rather than humanity, was the true motive. However, there is not one word to show that his own plans in 1803 were affected by the Act. Indeed, as the dates of the emigrants' arrival were August 7th, 9th and 27th, and even a favourable passage took six weeks, in all probability the emigrants for Prince Edward Island had sailed before the Act came into operation, and this is further borne out by Lord Selkirk's silence. But, more important still, we have his opinion that "however oppressive its consequences may be the Bill can . . . prevent emigration in a very inconsiderable degree"¹ and this because, on

¹ Chester Martin, *op. cit.*, p. 185.

the testimony of the Highland Society, even the poorest family took out at least £10 and this surplus would now be devoted to paying the higher fare—though it would mean that the emigrant would land without capital in hand. To quote his sarcastic conclusion—"the superabundant humanity of the Highland Society," anxious "to save the emigrants from the miserable consequences of being as much crowded on ship-board as the King's troops and living there on the same fare as at home, would result only in reducing the emigrants to beggary." ¹

Lord Selkirk's protégés were more fortunate in their sailing than the Macdonells under the devoted leadership of their priest, Alexander Macdonell, afterwards Roman Catholic bishop in Canada. He had persuaded many of the starving clansmen in 1791 to settle in Glasgow as weavers, he had encouraged them to form themselves into the Glengarry Fencible Regiment in 1793, had seen service with them as Chaplain, and on the return of peace he persistently petitioned government for a grant of land in Canada for their settlement. When the grant was made in 1803 his troubles were not over, for his biographer tells us how "the Highland proprietors took alarm and endeavoured by various means to prevent their people from emigrating. The regulations of the Passenger Act were rigidly enforced . . . and he may be said to have literally smuggled them away, so many and so various were the restrictions placed upon their departure." ² The Passenger Act may have made things more difficult, but probably it was the opposition of their chieftain Macdonell of Glengarry which was the most formidable difficulty. In 1802 he had written to the Home Office ³ giving an outline of the pecuniary sacrifices he had made to keep his tenants on their farms, and

¹ Lord Selkirk, *op. cit.*, pp. 153, 154.

² W. J. Macdonell, *Reminiscences of the late Hon. and Rt. Rev. Alexander Macdonell*, Toronto, 1888, p. 15.

³ H.O., 102/18. A. Macdonell to Lord Pelham, March 21st, 1802.

suggesting speedy legislation as the only hope for preventing the depopulation of the Highlands ; if these were his views he would exert the great indirect influence of a Highland chieftain to thwart the plans of the energetic priest.

There does not seem indeed any weighty evidence to prove that the first Passenger Act restricted emigration, and one contemporary maintains that not only had it no such effect, but that the price of the passage was not materially increased, and indeed that it removed the most formidable obstacle to emigration—the terror and misery of the passage. The year after Lord Selkirk's book appeared, Robert Brown, sheriff-substitute of the Western district of Inverness-shire, published a refutation of his arguments in favour of emigration and incidentally of those against the Passenger Act.¹ He probably knew more about the Highlands than Lord Selkirk, who based his book on the knowledge gained on a tour, he disclaims any motive of self-interest, and the word of a man in his position should be trusted. Brown thinks the framers of the Act justified in allowing greater tonnage for emigrants, for the Highlanders, surrounded by their own and their children's filth, required more room to maintain health than soldiers on the transports ! Such a view is vividly confirmed by a traveller in the Highlands just at this time ; amongst other typical scenes he describes a verminous cottage near Tummel Bridge where he passed the night and the dirty old crone with matted hair, " her right hand fairly layered and varnished with filth," who made tea for him, while his lamentations concerning the universal lack of soap are constant.² As for the elaborate diet required by the law, Brown considers that there are two alternatives which the emigrant must face and " no

¹ R. Brown, *Strictures and Remarks on the Earl of Selkirk's Observations on the Present State of the Highlands of Scotland*, 1806, pp. 98 ff.

² J. Bristed, *A Pedestrian Tour through Part of the Highlands of Scotland in 1801*, 1803, p. 301.

man who has the means can hesitate which he will most cheerfully pay, the doctor's bill or a bill of fare." It is his evidence on the price of the passage, however, which is particularly interesting. In 1801 the freight was often as high as £10 per passenger on which the traders were supposed to have a profit of £5 per head; in 1802-3 competition reduced the charge to £5 or £6 and the profit to £1 or 50s.; in 1804-5 the charge did rise to £9, but in 1806 a certain broker, Mr. Rabbi of London, gave passages from Leith to Prince Edward Island for £5 10s., taking a profit of 10s. per head.¹ The decrease is probably due to the lack of competition for accommodation owing to the war, and one cannot but conclude that the price of the passage was affected by supply and demand rather than by the law, and contrary to the view of Miss Cowan, who in her book on *British Emigration to British North America* ² in passing refers to the subject, it seems that the first Passenger Act did not check emigration.

Meanwhile, this first chapter in the history of the attempts to secure on the Atlantic passage conditions acceptable to the more humane conscience of the age, ended in a scene of mutual congratulation and triumph. On July 4th a Special General Meeting of the Highland Society was called and the thanks of the Society were given from the chair to the Lord Advocate, Charles Hope, for the trouble he had taken in preparing the Act for regulating vessels carrying passengers. His lordship rose to make reply and once more to urge the cause of the emigrants. As he described the traffic of the agents who looked for high profits from the freight of the ships and still higher profits from the saving of provisions by the death of passengers on the voyage, as he described

¹ R. Brown, *op. cit.*, p. 100.

² H. I. Cowan, *British Emigration to British North America, 1783-1837*, 1928, pp. 28 and 29.

the scene on board that Irish ship in New York harbour, when the survivors of the voyage lacked strength and will even to rid themselves of the dead bodies which cumbered the decks, his fine voice must have trembled with indignation. He ended with an appeal to the Highland gentlemen present to assist in seeing that the provisions of the Act were carried out, for thus he sincerely hoped and believed such evils would for the future be prevented. His sanguine temperament led him to look for great results and so through his speech rings a note of satisfaction in a good work brought to successful issue.

The first suspicion of trouble came from Scotland where within six weeks the active enforcement of the law led to difficulty in the interpretation of the Act. So great was the difference of opinion amongst the Customs officials at the out-ports as to whether certain clauses related to British ships only or to foreign ships as well, to ships bound only to North America or elsewhere, to those only carrying passengers or to all and sundry, that the expert opinion of the Lord Advocate and Solicitor-General was invited by the Commissioners of Customs.¹ They replied circumstantially clause by clause giving a wide interpretation to the Act; but in 1805, when his opinion was again required, the Solicitor-General, Robert Blair, perhaps because he no longer had Charles Hope as colleague, reversed the former judgment and limited many of the important clauses only to ships bound to North America.² Then, also, from the first, there seems to have been difficulty in obtaining correct returns of the number of emigrants and detailed journals of the voyage from master and surgeon, without which it was impossible to detect evasions. In December 1803 the Customs officials are instructed to see that the journals

¹ C.H., Circular Orders, Scotland, 1791-1804. Aug. 5th, 1803.

² *Ib.*, 1805-12. Oct. 17th, 1805.

are handed over with no "deficiency or obscurity" of statement or else they are to supply the deficiency by verbal enquiry and report,¹ while in May the next year further orders follow because in many instances the lists and journals have not been forwarded,² and in June attention is drawn to the clause in the Act which imposes the penalties for wilful and corrupt perjury on all masters who swear falsely on the returns contained in list or journal.³

Difficulties also arose over the tonnage duties imposed by Acts 43 George III, caps. 68 and 70,⁴ as it was considered a hardship that these duties should be paid on passengers' luggage and provisions, but these were ended by a decision of the Treasury in the negative,⁵ and on the whole, in spite of the difficulties, a vigorous attempt was made in Scotland to supervise those emigrant ships which did sail during the latter years of the Napoleonic Wars. The lists, which continued⁶ to be sent to the Treasury in accordance with the order of 1773, have been for the most part destroyed, but an occasional communication survives in which it is certified that the stipulations of the Act have been duly observed and particulars of the provisions and water examined on board are given.⁷ The Highland proprietor, still anxious to check emigration, if not heedful of the sufferings of their tenants on the Atlantic passage, kept the Customs up to the mark by representations to the Treasury, who in 1811 issued orders for the strict enforcement of the Act and also that enquiries should be made along unfrequented parts of the coast lest ships should have put

¹ C.H., Circular Orders, Scotland, 1791-1804. Dec. 24th, 1803.

² *Ib.*, 1791-1804. May 25th, 1804. ³ *Ib.*, 1791-1804. June 19th, 1804.

⁴ *Ib.*, 1805-1812. Oct. 17th, 1805, and Sept. 7th, 1810.

⁵ *Ib.*, 1813-1820. May 11th, 1813.

⁶ *Ib.*, 1805-12. Nov. 3rd, 1812.

⁷ T., 1/1346 of 1805 and T., 1/1364 of 1805. Commissioners of Customs, Scotland, to W. Huskisson, March 11th and March 12th, 1805.

to sea without official knowledge.¹ It was elsewhere that private interests were strong enough to obtain the modification or complete repeal of the Act.

As soon as it was passed, as might be expected, petitions in protest reached the Treasury. First came that of Clement Nicolle, Thomas and John de Grouchy and eight other merchants trading between Southampton and the Channel Islands, pointing out "the extreme difficulty and detriment to short traders" caused by an Act which they supposed was designed only for long voyages and not applicable to their vessels fitted up for passengers on board only a few hours.² Unfortunately for them the Commissioners of Customs, to whom the petition was referred, did not think likewise,³ but next year His Majesty's Law Officers, to whom the matter was referred by the Privy Council, who had received a further protest from another merchant, decided that the law did not extend to vessels sailing to the Channel Islands⁴ and the Treasury issued orders to the Customs to that effect.⁵ The passenger traffic across the Channel was thus left free.

Another concession was made in 1804 which did definitely affect the emigrant trade across the Atlantic, which this first concession did not. When the spring season came it was discovered that the Passenger Act seriously interfered with a long-established and most important industry—the fishing trade of Newfoundland. As far back as 1626 it has been stated as many as 150 vessels sailed from Devonshire alone,⁶ and for 200 years

¹ C.H., Circular Orders, Scotland. May 15th, 1811.

² T., 1/4504 of 1803. (Bundle 911) No date. Sent to Commissioners of Customs by N. Vansittart, Aug. 27th, 1803.

³ *Ib.* Report of Commissioners of Customs, Oct. 4th, 1803, and T., 29/81, Treasury Minutes, Oct. 10th, 1803.

⁴ T., 1/1221 of 1804. (Bundle 920) Sir Stephen Cotrell, to Council Office, to S. Sargent, Treasury, March 15th, 1804.

⁵ T., 11/43. S. Sargent, Treasury, to the Commissioners of Customs, March 20th, 1804.

⁶ J. Hatton, M. Harvey, *Newfoundland*, 1883, p. 34.

Newfoundland was "as a great English ship, moored near the banks in the fishing season for the convenience of English fishermen"¹—as a ship, not a colony, for the strictest laws were passed against settlement, which it was feared would interfere with the fishing industry. So in 1804 about 4,000 men were employed in the fisheries² and these returned to the United Kingdom at the end of each season, to sail with the great fishing fleet the next spring.³ These men, accustomed to the rigours of the passage and life on the Newfoundland banks, were the hardiest sea-salts, and could survive conditions fatal to the land-lubber emigrants; besides, the law would restrict the numbers of fishermen sailing just when the renewal of the war prevented French competition in this lucrative trade. So quickly "on account of the expediency that existed for the trade to Newfoundland not being delayed"⁴ an Act⁵ was hurried through Parliament exempting all vessels whose passengers were to be, or had been, employed in the fisheries. In the same spirit, in 1813 vessels trading with the Hudson Bay were also freed from the restrictions of the law.⁶ So in the interests of commercial prosperity, to meet the needs of special trades, the Passenger Act was relaxed. But these were the days of the titanic struggle with Napoleon when the recruiting sergeant was a familiar figure and the press-gang hard at work, so those who emigrated were few. Each year a small group of Highlanders left for the Earl of Selkirk's settlement on the Red River and their numbers were increased to a couple of hundred occasionally by wholesale eviction from some great estate.⁷ But these were all, and it was easy to find place for them

¹ J. Hatton, M. Harvey, *Newfoundland*, 1883, p. 42.

² *Ib.*, p. 87.

³ See also *Newfoundland*, 1921, published by the High Commissioners for Newfoundland, p. 7.

⁴ *Parl. Debates*, Vol. II, p. 264b. April 25th, 1804.

⁵ 44 Geo. III, c. 44.

⁶ 53 Geo. III, c. 36.

⁷ H. I. Cowan, *op. cit.*, p. 36.

on the terms prescribed by law on the many timber vessels which crossed the Atlantic each season.¹ In consequence there was no general opposition to the law because few felt its pinch.

The scene changes after 1815, when there opened that great period which was to see the development of the scattered settlements in the backwoods along the lower St. Lawrence into the Canadian Dominion of to-day, a development only made possible by the thousands of English men and women who were ready to face the peril of wind and wave, the incessant labour of the forest settlement and all the hardship of the pioneer. It is the era of emigration on a scale never before imagined, when the whole attitude of thinking men and the policy of the government underwent a remarkable change. Before the end of the war the opposition to the very principle of emigration had begun to yield, for energetic Canadian governors, as Simcoe and Provost, especially after the War of 1812, urged the necessity for an increase of population along the frontier as a defence against the United States. Others, as Patrick Colquhoun,² pressed the argument that emigration would entail an increased demand for British manufactures and was a natural remedy for over-population. With the peace, however, came an added impetus which was to break down all legal barriers to the free movement of the people of Great Britain overseas. In the dark days after 1815 when there came the slump in both agriculture³ and

¹ J. Bristed, *Resources of Empire*, p. 136, states that in 1808 British North America shipped 50,000 loads of timber a year to Great Britain.

² P. Colquhoun, *A Treatise on the Wealth, Power and Resources of the British Empire*, 1814, p. 18.

³ *Parl. Debates*, Vol. XXXIII, p. 34a, March 7th, 1816. "In the Isle of Ely whole parishes had been deserted and the crowd of paupers increasing in numbers as they went from parish to parish spread wider and wider this awful desolation." V. also *P.P.*, 1822, V, 236, *Report of Select Committee on Agriculture during 1820-1821*. 346 petitions on the agricultural distress were received.

industry,¹ and it was impossible for all to find work, when Malthus urged that England was over-populated, when the government felt it their duty to provide for the disbanded soldiers and sailors, and when hundreds of petitions² reached the Colonial Office every year begging for assistance to escape from the land where starvation seemed the only prospect, it was impossible longer to maintain opposition to what appeared a natural remedy. The petitions to the Colonial Office fill many volumes; they come from men of all classes; they show most vividly the sad conditions of the time. So terrible is the position of many a writer, and so pathetic his hope in the opportunities offered in the Canadian backwoods, it would seem impossible to refuse some assistance, and at last the government's opposition to emigration yielded.

Accordingly, in the very year of the peace the Colonial Office under Lord Bathurst offered help to settlers anxious to leave Scotland for Canada, although so great was the prejudice still that Henry Goulburn, the Under-Secretary, in the House of Commons had to refute the charge of "encouraging" emigration and claimed "that the object of the government was merely to direct those determined to emigrate, and change their destination from the United States to His Majesty's possessions . . . as the danger in which Canada was during the last war had arisen from its scanty population."³ Free passages were given, grants of land, rations and tools,⁴ but so expensive was the venture that it was not repeated, and in 1818 a new plan was tried by which land was given to men of property who could embark capital in the enterprise and who undertook to bring out with them men of the working

¹ See as ex. P.P., 1835, XIII, 341. *Report of the Committee on Hand Loom Weavers.*

² C.O., 384/1 and ff.

³ *Parl. Deb.*, Vol. XXXI, p. 917. June 21st, 1815.

⁴ *Cal. Merc.*, 1815, Feb. 25th, i.e., see also C.O., 42/164 and 165 *passim*.

class.¹ The next important step was the first Parliamentary vote for emigration passed for £50,000 in 1819;² it was a government measure, was not discussed and so cannot be taken as a definite acceptance by Parliament of the advisability of emigration, but the same year a recommendation made by the Select Committee on the Poor Laws shows that in high quarters a notable change of opinion had taken place; freedom of movement for labour was recommended and emigration was referred to as a "not unnatural" remedy for distress.³ Such a naïve statement seems but a small concession, but it shows the trend of opinion which was to lead in 1824 to the repeal of the laws which had for so long forbidden the emigration of all artisans.⁴ In the meantime there had succeeded Henry Goulburn as Under-Secretary at the Colonial Office, an enthusiast who was with real conviction to extol emigration as the best remedy for distress—R. J. Wilmot Horton. He publicly made confession of his faith and urged his point before a Parliamentary Committee on the State of Ireland in 1823;⁵ and it was due to his efforts that in 1826 and 1827 the whole question of emigration was investigated. He carried through two further experiments by granting in 1823 and 1825 government assistance under an experienced organiser to those desiring to leave Ireland for Canada.⁶ At last Parliament definitely accepted the principle and appointed a Select Committee⁷ under the chairmanship of Horton to make recommendation of the best policy to follow: a revolution in economic opinion had occurred.

It was inevitable that this change from rigid opposition

¹ E. Talbot, *Five Years' Residence in the Canadas*, Vol. I.

² *Parl. Deb.*, Vol. XL, pp. 1549 ff. July 12th, 1819.

³ *P.P.*, 1819, II, 529, p. 249.

⁴ 5 Geo. IV, c. 97.

⁵ *P.P.*, 1823, VI, 561.

⁶ C.O., 384/12, *passim*, and *P.P.*, 1823, VI, 561.

⁷ *J.H.C.*, 1826, p. 167a.

to government measures for the encouragement and assistance of those who wished to find relief from the general distress in Canada, should react on the law which regulated the conditions on the passage. Even if no assistance was given, all were agreed that at least all and every obstacle should be removed and undoubtedly the Passenger Act, limiting the number of passengers, increasing the cost of the voyage by certain of its provisions, was such an obstacle; in consequence from all quarters came complaints and demands for its total repeal or, at least, its relaxation. The Colonial Office in their scheme of assistance in 1815 were the first to feel its pinch. Every effort was made by their zealous agent in Glasgow, John Campbell, to secure the transports from the Transport Office, to provision them and to ship the emigrants, but delay after delay occurred and chiefly owing to the insistence of the Customs officials that the terms of the Act should be observed. According to the law each vessel was allowed to carry only one person, whether adult passenger, child or crew for every two tons, whereas the government instructions in 1815 were that the regulations governing the transport of troops were to be observed; ¹ the law provided that a surgeon should be carried if there were more than 50 passengers, and these, although badly needed to care for the women, several of whom were pregnant, and the children, unwell from change of diet, were not appointed. ² The regulations concerning food were also considered unsuitable by Campbell and Lieut. Champion, the agent of the Transport Board. ³ In consequence of these difficulties the ships were long detained and the government put to the neces-

¹ *Cal. Merc.*, March 27th, 1815, and C.O., 42/165, J. Campbell to Transport Board, April 21st, 1815.

² C.O., 42/165. Chas. Champion (agent for transports) to H. Goulburn, June 30th, 1815.

³ *Ib.*

sity of rationing the emigrants¹ while a lengthy correspondence was carried on between the Colonial Office and the other departments concerned. The Transport Board were instructed to appoint the surgeons required² and to authorise the change in the scale of provisions,³ but the Customs officials were very stubborn and refused to dispense with the forms of law even on an order from the Treasury.⁴ One from their own Board at Edinburgh was in their eyes necessary, and only after this was at last secured⁵ did the transports sail.

In the years that followed protests against the vexatious restrictions of the Act continued to come in, first from emigrants, who regarded the law not as a safeguard on their journey, but as an unnecessary cause of the high rate of passage which prevented many from sailing at all, and secondly from shipowners who were prohibited from making the most of the "rage for emigration." In 1816 an interesting petition was received from 100 heads of parishes of Glenelg, Glenshiel and others in Inverness and Ross; they were illiterate, so one of their number signed for them; his signature was witnessed by three ministers of the Kirk, and with such respectable guarantors it seems as if their request was genuine and not dictated by some rascally agent, who for his own selfish profit would wish to see the Act repealed. They "consider the Act of Parliament in 1803 for regulating emigration to America, however well meant by the legislature, as obtained by interested people to operate as a bar to emigration altogether by raising the freight to an amount

¹ C.O., 42/165. Note on letter J. Campbell to Transport Board, April 21st, 1815.

² C.O., 42/165. Note on letter J. Campbell to Colonial Office, June 28th, 1815.

³ C.O., 43/52, p. 107. H. Goulburn to Transport Office, July 5th, 1815.

⁴ T., 1/9551 of 1815. Lieut. Champion to Colonial Office, June 21st, 1815.

⁵ C.O., 42/164. Copy of letter to S. R. Lushington, Secretary to the Treasury, from Matthew Pemberton, Custom House, Edinburgh, July 1st, 1915.

the slender means possessed by the inhabitants of the Highlands could not afford to pay and thus fixing them to the soil." It is pointed out that the proportion to tonnage is too high when so many of the passengers are children, that the food required is too costly and even detrimental to health because not that to which they were accustomed to.¹ Lord Bathurst returned a refusal of the request on the grounds that the Act had only been passed after due investigation and thought. In 1818, under the Government scheme of that year, a certain Scotch proprietor managed to procure sufficient money for the deposits of a hundred families who were to take ship at Greenock. When they were assembled on board, the transport officer discovered they had not the necessary provisions and a memorial was sent to Lord Bathurst begging that instead of the elaborate diet required they might be "allowed to provide country food."² Indeed, the regulation that fresh meat and butter and such luxuries should be provided was a heavy burden on the poor emigrant who with difficulty scraped together the few pounds necessary to pay his way and who, even if he could afford them, would with ignorant conservatism prefer his accustomed diet.

If the emigrants objected to regulations drawn up in their own interest, it can well be imagined how virulent was the opposition of the shipowners who but for the law could have crammed their vessels to overflowing and reaped an enormous profit. Of these a certain William Allen of Leith seems to have been the most insistent. First, in 1817, he protested to the Collector and Comptroller at Leith against the clause which demanded that the same quantity of provisions should be shipped for a child as an adult, then he carried his case before the

¹ C.O., 42/170. Memorial of Alex. Macleod, etc., to C.O., May 6th, 1816.

² C.O., 384/3. Commissioners of Navy Office to H. Goulburn, July 10th, 1818.

Commissioners of Customs at Edinburgh and then through a London lawyer to the Treasury.¹ They replied that they had no power to dispense with the law in this respect,² so Allen then tried the Colonial Office, begging Lord Bathurst to obtain for him a relaxation of the law as, he suggests, his lordship had done in the case of other shipowners.³ Three years later he tries Lord Bathurst again, pointing out that for each child, however young, provided he is not an infant in arms, it is necessary to ship 52 gallons of water, 84 lb. of beef, 84 lb. of biscuit, 24 lb. of flour, 36 lb. of oatmeal and 6 lb. of butter! In addition he states that often they refuse to touch anything but oatmeal and potatoes to which they are accustomed and that consequently there is considerable waste.⁴ Another merchant, Donald MacCrummell of Skye, also writes begging for a modification of the Act, though he acts on behalf of several hundred emigrants and bases his plea on specious arguments that if the Act is altered to one passenger per ton "it would put it in the power of vast numbers to escape starvation . . . in the land which has produced the kilted heroes of Waterloo" and that "it would be lamentable if any of them should find their way to the United States."⁵

As the national welfare demanded that the way of escape to the poor and destitute should be made as easy as possible, and as certain clauses of the law appeared oppressive, gradually in the years after 1815 concession after concession was made. But first it was necessary to guard against the easy passage of emigrants to the more or less unfriendly territory of the United States, and so in 1816 the regulations of 43 George III, c. 56, were

¹ C.O., 384/1. Petition of William Allen to the Lords Commissioner of H.M.'s Treasury, May 19th, 1817.

² C.O., 384/1. S. R. Lushington to Robert Auld, May 21st, 1817.

³ C.O., 384/1. Robert Auld to H. Goulburn, June 7th, 1817.

⁴ C.O., 384/6. William Allen to Lord Bathurst, May 10th, 1820.

⁵ C.O., 42/170. Memorial of Donald MacCrummell to the C.O., Nov. 20th, 1816.

extended to vessels sailing to that country,¹ while the next year new regulations were made for those bound for His Majesty's colonies in North America. Instead of one person for every two tons, one adult or three children for every one and a half tons could be carried and the quantity of water and provisions was reduced.² The relaxation of the law was at first taken advantage of, as certain clauses allowed two interpretations,³ and in one case all the provisions shipped were exhausted in seven weeks and the water was bad; in consequence strict orders were issued for the enforcement of the law⁴ which our consul at New York, James Buchanan, endorsed as most "important to the growth of the colonies,"⁵ allowing as it did special terms to those vessels serving our own possessions. No other changes were brought before Parliament for some years, but in various ways the safeguards for the enforcement of the law were removed. From 1817 the security of another party in lieu of the owners of a vessel might be accepted;⁶ from 1818 no longer need a magistrate attend on board to see that the regulations were carried out;⁷ from 1820 no bond at all need be given that the master and surgeon keep a journal, that the master or owners do not take on board more passengers than by the law allowed or land them at any place other than that to which they contracted to convey them.⁸ Finally, by a series of orders issued from the Treasury, the scale of provisions was altered considerably. Probably in consequence of William

¹ 56 Geo. III, c. 114.

² 57 Geo. III, c. 10, and C.H., Circular Orders, Scotland, 1813-20. April 5th, 1817.

³ C.H., Circular Orders, Scotland, 1813-20. Opinion of the Law Officers re 57 Geo. III, c. 10. Nov. 1st, 1817.

⁴ C.H., Circular Orders, Scotland, 1813-20, Feb. 26th, 1818.

⁵ C.O., 42/177, Jas. Buchanan to C.O., Nov. 29th, 1817.

⁶ Records of Board of Customs in Custom House, Liverpool. [Hereafter cited as C.H.L.] S. R. Lushington, to the Commissioners of the Customs, April 9th, 1817.

⁷ 58 Geo. III, c. 89.

⁸ 1 Geo. IV, c. 7.

Allen's appeal in 1820 a discretionary power was allowed by the Treasury to the Customs officials, after consultation with some other disinterested person, to decide what were adequate provisions for a twelve weeks' voyage.¹ Thereupon the Board of Customs got busy on the subject and within a month issued two complicated schedules of orders² after having considered many and various applications on the subject. The final decision cuts down the ration of beef but increases the allowance of oatmeal very considerably; children under two years are to be provided with half the ration required for adults, and children between two and eight with three-quarters. Minor alterations were made by the Treasury in 1821³ and the same orders continued for 1822-3.⁴

The Passenger Act remained on the Statute Book, but it was in effect almost a dead letter, particularly in Ireland.⁵ Observers in America noticed ship after ship arriving crowded far beyond the limits allowed by law, without surgeons, with but inadequate supplies of food and medicine.⁶ And—crowning irony—certain officials in the Colonial Office at any rate, if not the whole department, were ignorant that any restrictions existed!⁷

During the years 1821 and 1822 the Treasury Board had before them several communications dealing with the emigrant traffic, sufficient to draw their attention though not indicative of any widespread abuse. The

¹ C.H., Circular Orders, Scotland, 1813-20. May 26th, 1820.

² *Ib.* June 15th and June 27th, 1820.

³ *Ib.* Treasury to Commissioners of Customs, March 16th, 1821.

⁴ *Ib.* Sept. 18th, 1822.

⁵ T., 1/8021 of 1821 in 1311 of 1822. Gilbert Robertson, Consul, Philadelphia, to the Collector of Customs, Cork, July 26th, 1819.

⁶ *P.P.*, 1826, IV, 404, p. 335. A. C. Buchanan to Council of Chambers of Commerce, Dublin, March 9th, 1824; also p. 337, Evidence of J. Astle; also *P.P.*, 1826-7, V, 237, p. 71. Evidence of A. C. Buchanan.

⁷ T., 29/204. Treasury Minutes, Dec. 18th, 1821, and C.O., 324/143, p. 359, Adam Gordon to the Lords Commissioner of the Treasury, Dec. 14th, 1821.

British Consul in Philadelphia reported in 1819 a vessel named the *James Fitz-Patrick* from Cork for a serious breach of the law ; as well as ballast, passengers, luggage and an innocent " two pairs of wheels and two pairs of harness " noted in the clearance, there were on board 83 passengers, whereas the vessel should only have carried 36, one to every two tons.¹ There followed a desultory correspondence between one of the Secretaries to the Treasury, S. R. Lushington, and the Commissioners of Customs, Dublin, who typifying the general slackness and indifference regarding the Act, replied eighteen months later that no remedy could be had.² The Commissioners in London showed greater energy when the case was referred to them, and reported that they considered the law should be enforced by the detention of the vessel.³ Meanwhile another case was before the Board and attracted the particular attention of Lushington, who treated the sufferers with " kindness and affability in the several interviews " which they were given.⁴ During the late summer of 1821 an emigrant ship, the *Hope*, bound for Van Dieman's land, was detained by the Customs officials at Ramsgate for having more passengers on board than by the Act allowed.⁵ The emigrants naturally suffered by the delay and appealed to the Colonial Office who passed their petition on to the Treasury with the suggestion that regulations should be made to prevent the recurrence of such an evil. The case of the emigrants hardly concerns us in this instance,

¹ T., 1/8021 of 1821 in 1311 of 1822. Gilbert Robertson, Consul, to the Collector of Customs, Cork, July 26th, 1819, and to Joseph Planta, Foreign Office, July 29th, 1819.

² T., 1/1311 of 1822. Commissioners of Customs, Dublin, to Treasury, April 28th, 1821.

³ T., 1/10461 of 1821 in 1311 of 1822. Commissioners of Customs to the Lords Commissioner of the Treasury, June 6th, 1821.

⁴ T., 1/24696 of 1821. Jos. Butterworth to S. R. Lushington, Dec. 22nd, 1821.

⁵ T., 29/204, p. 351. Treasury Minutes, Dec. 18th, 1821, and C.O., 324/143, p. 359, Adam Gordon to Lords Commissioner of the Treasury.

but it is comforting to know that their necessity was relieved and they were furnished with free passages to their destination.¹ What is of importance is that the Commissioners of Customs were instructed to draw up new regulations,² which strangely enough they had already done³—at the instance of the Shipowners Society of London, representing the owners! This was because of the ambiguity of the Act in the case of ships partly laden, in consequence of which the shipowners considered that the *Hope* had been unjustly detained.⁴ In order to avoid such misunderstanding in the future, and to simplify the regulations, the Commissioners proposed to repeal the five Acts in force and to substitute one measure. The chief clauses they detailed to the Privy Council for Trade, to whom the petition of the Shipowners Society had been forwarded by the Treasury, and these were approved.⁵ Four months later Mr. Lushington presented the Bill thus prepared,⁶ and though not passed in 1822, because introduced late in the session and opposed by those interested in the American Trade,⁷ it became law in 1823.⁸ This measure brought the whole question of the Passenger Acts to the public notice and led to the great battle of contending principles so deeply involved.

Although the Commissioners of Customs declared that

¹ C.O., 324/143. H. Goulburn to Commissioners of the Navy, Dec. 10th, 1821.

² T., 11/67, p. 105. S. R. Lushington to the Commissioners of Customs, Dec. 20th, 1821.

³ T., 1/691 of 1822 in 8,296 of 1823. Report of Commissioners of Customs to Treasury, Jan. 11th, 1822.

⁴ T., 1/22,752 of 1821 in 8,296 of 1823. Shipowners' Society to S. R. Lushington, Nov. 28th, 1821.

⁵ T., 1/1140 of 1822 in 8296 of 1823. Thomas Lack, Office of Privy Council for Trade, to S. R. Lushington.

⁶ P.P., 1822, II, 336.

⁷ T., 1/8296 of 1823. Shipowners Society to Charles Herries, April 17th, 1823. Also T., 1/10,881 of 1822 in 11,866 of 1822. Memorial of Liverpool merchants composing the American Chamber of Commerce to the Lords of the Treasury, June 6th, 1822.

⁸ 4 Geo. IV, c. 84.

the new Act had only been drawn up after repeated consideration and enquiries at the different out-ports, and at the request of the Shipowners Society,¹ it most certainly increased the burden of the law, for the Commissioners appear to have acted with the greatest zeal in their effort to secure one comprehensive Act and "the comfort and preservation" of the emigrants.² The Ship-Owners Society were satisfied³ by a clause⁴ which allowed, in the case of ships partly laden, a space of 6 ft. × 2 ft. 6 ins. × 5 ft. 6 ins. to be apportioned to one adult, instead of the former method of calculation, whereby the tonnage of the cargo was deducted from the registered tonnage of the vessel and passengers allowed in the proportion of one to every two tons of the remainder, for where heavy yet compact cargo was carried this was a concession; even this, however, was not approved by Liverpool merchants engaged in the American trade⁵ and other clauses met with wholesale condemnation. The chief trouble was caused by the fact that no difference was made, as before, between vessels sailing to foreign parts and those bound for North America, and while hardly more severe than the general Act of 1803 it included regulations from which the North American trade had been freed by the particular Act of 1817. Thus instead of carrying one adult to every 1½ tons as was before allowed to North America, no matter where the ship was bound she must allow 2 tons for every adult and—unheard of till now—the height between

¹ T., 1/11,866 of 1822. Report of Commissioners of Customs to the Lords of the Treasury, June 13th, 1822.

² T., 1/11,866 of 1822. Report of Commissioners of Customs to the Lords of the Treasury, June 13th, 1822.

³ T., 1/8296 of 1823. George Lyall, Chairman of Shipowners Society, to Charles Herries, Secretary to the Treasury, April 17th, 1823.

⁴ 4 Geo. IV, c. 84, cl. V.

⁵ T., 1/10,881 of 1822 in 11,866 of 1822. Memorial of Liverpool merchants composing the American Chamber of Commerce to the Lords of the Treasury, June 6th, 1822. See also *P.P.*, 1826, IV, 404, p. 296. Report of Committee of American Chamber of Commerce, Aug. 16th, 1822.

decks must be 5 feet 6 inches. As well, a licence ¹ must be obtained from the Commissioners of Customs or else 5 tons would have to be allowed as was the case for foreign vessels. This occasioned a bitter protest from Liverpool merchants,² whose petition was forwarded by no less a man than their member, George Canning;³ they also pointed out that the American Government would probably take exception to certain clauses, as, for instance, that insisting on a surgeon with British medical qualifications. But it was in Ireland that the Act was most hardly felt, and one can imagine the uneasiness with which shipowners and emigrant agents scanned the newspapers, and their consternation when the new regulations were published, regulations which the Commissioners had drawn up in light-hearted fashion, probably without extending their enquiries to Ireland and most certainly without an idea of the storm they would arouse, or the sad consequences for many a would-be Irish emigrant disappointed in his hope.

Not only shipowners but magistrates, public officers and the gentry of the country in their alarm appealed to Government. They were united in the opinion that the price of passage would be doubled, and that in consequence the Act would be a "complete prohibition";⁴ whereas before from Londonderry the cost had been 40s. to 60s. without provision, it would now be £6 to £7, and this was a special hardship to those who in ignorance had sold their farms and travelled to the seaport to discover that what they had scraped together

¹ For an example of such a licence, see C.H.L. Board to Collector, Feb.-Aug., 1825, p. 68.

² T., 1/10,881 of 1822 in 11,866 of 1822. Memorial of Liverpool merchants composing the American Chamber of Commerce to the Lords of the Treasury, June 6th, 1822. See also *P.P.*, 1826, IV, 404, p. 296. Report of Committee of American Chamber of Commerce, Aug. 16th, 1822.

³ T., 1/11,866 of 1822. George Canning and J. Gascoyne to S. R. Lushington; June 1st, 1822.

⁴ *P.P.*, 1825, VIII, 129, p. 26, and *P.P.*, 1826, IV, 404, p. 335. A. C. Buchanan to Council of Chamber of Commerce, Dublin, March 9th, 1824.

was insufficient.¹ Once more the elaborate regulations concerning food, allowed to lapse of recent years, and now re-enacted, were condemned, while the clause requiring a surgeon produced perhaps the most scathing criticism; it was ridiculous to expect a "Professor of Medicine" with qualifications higher than those demanded of Army and Navy surgeons,² to sail on an emigrant ship, and advertisements posted all over Ireland had not met with a single reply; "Cleanliness and purgatives" were all that were considered necessary for a clean bill of health. To one patriotic writer it seemed as if the Government intended to turn emigration from British North America to the United States, because once the preference allowed by the Act of 1817 was abolished the tide would set in that direction, and particularly so because the law would be more difficult to enforce on ships bound to a foreign port.³ It was indeed generally felt that the law might do very well for ships bound for Van Dieman's Land⁴—probably the connection of the Act with the case of the *Hope* was known—but that it was utterly unsuited for the Irish trade. Such opinion was reflected in the Committee which enquired in 1825 into the condition of Ireland, for the Under-Secretary of the Colonial Office was asked if he was aware of the increased cost of passage, whether the Act had not been framed with respect to the carrying of passengers to New South Wales, and whether he knew of any reason for such interference with the trade; to these questions he only returned vague replies, for of course his department had had nothing to do with the framing of the Act.⁵ As a result of this

¹ C.O., 384/10. Memorial from Co. Wexford to Lord Bathurst, March 22nd, 1824.

² C.O., 42/371. J. Astle to Wilmot Horton, Sept. 11th, 1823.

³ P.P., 1825, VIII, 129, p. 26, and P.P., 1826, IV, 404, p. 335. A. C. Buchanan to Council of Chamber of Commerce, Dublin, March 9th, 1824.

⁴ C.O., 42/371, Sept. 11th, 1823. J. Astle.

⁵ P.P., 1826, IV, 404, pp. 325 and 326. Extracts from evidence before Committee of 1825 on the condition of Ireland.

general feeling the Treasury acceded to a request made by Dublin shipowners for a new Act,¹ but after an investigation and correspondence it was found difficult to arrange terms,² and so finally the new Act,³ passed in 1825, re-enacted the law of 1823 but gave to the Treasury the power to exempt any vessels bound from Ireland to North America.

Between 1823 and 1825, then, the question of restrictions on the emigrant trade had been well ventilated; the government departments had been exercised in mind, questions had been asked in Parliamentary Committees, public opinion had been aroused—and the result was that the most important branch of the emigrant traffic had practically been freed from any regulation. These were the years when the enlightened Tory leaders were working for freedom from obsolete restriction; Huskisson was carrying through his commercial reforms, the laws forbidding emigration of artisans were repealed, the struggle to legalise the workers' freedom was being fought over the Combination Acts. It is therefore only to be expected that there was a demand for the complete withdrawal of restrictions comparatively new. Only in force twenty years or so, there was not the sanctity of age behind them, and was not the trade from Ireland practically freed? Why not therefore sweep away the remaining regulations and allow free play to economic forces? This demand was strongly urged by the *Edinburgh Review*.⁴ In December 1826 this periodical considered the whole series of Acts, which they believed from the first in 1803 to have been designed to check emigration. As for the Act of 1823, it was "carefully

¹ *P.P.*, 1825, VIII, 129, p. 26, and *P.P.*, 1826, IV, 404. Letter to the Lords of the Treasury from merchants and shipowners of the port of Dublin. No date given.

² *P.P.*, 1825, VIII, 129, p. 138. Evidence of J. Astle before the Committee on the state of Ireland.

³ 6 Geo. IV, c. 116. ⁴ *Edinburgh Review*, Dec., 1826, Vol. XLV, p. 61.

devised for the express purpose of suppressing emigration altogether . . . and if we wish to keep the pauper population of Ireland at home or to force them to Great Britain . . . admirable." Although "proper to maintain regulations concerning numbers, and Customs officers to see sufficient water, oatmeal, potatoes and herrings on board, . . . further than this no interference ought to be tolerated" in the opinion of the writer, who also discusses the question of a surgeon and mentions the Act of 1825, which was passed in consequence of the demands from Irish merchants. And then comes the logical and expected demand: "But why not entirely repeal so impolitic a statute? The feeble and impotent attempt that has thus been made to amend the Passenger Acts sets the necessity of their abolition in the most striking point of view; and will we hope lead to their total repeal, with the exception of the regulations to which we have now alluded."

Such opinions reflect very clearly a new conception of emigration and the breakdown of the old prejudice, but the *Edinburgh Review* was in advance of general opinion, and in many quarters the sailing of every emigrant ship still meant so much loss in man power to the nation. In these same years, however, the chief citadel—the Colonial Office itself—had been stormed; before the New Year of 1822 there was appointed to the Under-Secretaryship a young man representative of the vigorous and enlightened school of Tory politicians, a visionary convinced of the benefits of emigration both to the colony and the Mother Country. This was Robert Wilmot Horton, member for Newcastle-under-Lyme from 1818 to 1830, and Under-Secretary at the Colonial Office from 1821 to 1827.¹ Although he worked in harmony with his predecessor, Henry Goulburn, now transferred to the Secretaryship for Ireland, he seems to have been a man

¹ D.N.B.

of very different character. Goulburn's neatly written and exact notes on official correspondence reveal him as a methodical, industrious and capable man of business, but he does not appear as a man of bold conception; he certainly was responsible for the assistance given to emigration in 1815, 1818, 1820 and 1821, but as a matter of expediency rather than of principle, and his views lack the breadth and originality of Wilmot Horton, and his personality the fire and enthusiasm of a man of ideas. The latter on the other hand, Greville tells us, was "so totally without method and arrangement that he was hardly intelligible," but he was possessed with the "zeal and animation"¹ of the reformer. Deeply interested in the political and social questions of the day, his views were liberal, as is shown by his support of the repeal of the Test and Corporation Acts, and he was a devoted follower of Huskisson. Like his leader, who later made memorable his short tenure of power at the Colonial Office by an eloquent appeal in favour of the colonial empire,² Horton was an imperialist and looked forward to the time when "all the colonies of the British empire should be saturated, and millions added to those who speak the English language, and carry with them the liberty and the laws and the sympathies of their native country."³ He looked forward to the perpetual union of colony and Mother Country and to him emigration was one way of strengthening the connection and of bringing to the development of the colony that labour which was needed. But Horton, as his innumerable pamphlets show, was also an economist, anxious to find some way of relief from the social troubles in England, and in his view this too would be achieved by a systematic

¹ C. Greville, *Memoirs*, 1st series, 1874, II, pp. 97-8.

² *Parl. Deb.*, Vol. XIX, p. 315. May 2nd, 1828.

³ *P.P.*, 1823, VI, 561. Report from the Select Committee on the Employment of the Poor in Ireland.

scheme of emigration, and with extraordinary industry he set to work to prove that his views were supported by Ricardo and other economists. He was indeed a man possessed of insight which made clear to him the possibilities of the empire of the future, an economist eager for freedom from restriction—and yet he shared with Lord Shaftesbury and other humanitarians that sympathy for the individual sufferer which was to make them the bitter opponents of those more cold-blooded economists whom he seems to represent.

Although he was the leader, he was supported in his schemes by Goulburn, and his famous colleague Peel, now at the Home Office, but who when Secretary for Ireland had come to regard emigration as the only solution for the difficulties of that unhappy country.¹ In 1823 he had prepared a plan for assisted emigration from Ireland and after its approval by a gathering of Irish gentlemen at Goulburn's house,² had carried it into execution that year and in the two succeeding. The expense was considerable, however, and in 1825 Parliament only agreed to the necessary vote of £30,000 on condition that a committee should be appointed early in the next session to enquire into the whole subject of emigration.³ This was that most important Emigration Committee which began its sittings on March 20th, and reported on May 26th, 1826;⁴ after having been re-appointed in 1827 they reported for the first time on February 26th,⁵ for the second on April 5th,⁶ and for the third and last time on June 29th.⁷ It included amongst its members, Peel, Goulburn, Lord John Russell, E. G. Stanley, Spring-Rice, Palmerston and other men of standing, many of whom were destined to play a part at the Colonial Office in the future, while the chairman

¹ H. Cowan, *op. cit.*, p. 151.

² *P.P.*, 1823, VI, 561, p. 170.

³ C.O., 43/70. W. Horton to P. Robinson, Nov. 17th, 1827.

⁴ *P.P.*, 1826, IV, 404.

⁵ *P.P.*, 1826, 27, V, 88.

⁶ *P.P.*, 1826, 27, V, 237.

⁷ *P.P.*, 1826, 27, V, 550.

was Wilmot Horton himself.¹ One of the most important questions to be investigated was the success attending the experiments of 1823-5, and minute evidence went to prove that, though successful, the expense prohibited assistance on the same scale in the future. How could the expense of settlement be reduced? One answer, and the simplest, was to relax or repeal the Passenger Act. This was the solution put forward by those who shared the opinion of the writer in the *Edinburgh Review* that regulation was only an unnecessary bar to emigration. But the Committee were nothing if not thorough, and so the whole question of the Act and its effects was first minutely investigated.

In order that all sides of the question might be heard, first there was a public official from across the Atlantic—J. Uniacke, the Attorney-General of Nova Scotia, who had been personally interested in the settlement of emigrants on his private property there, and whom Lord Dalhousie thought to be “A liberal, charitable and kind protector.”² He could speak of the arrival of emigrant ships, while acquainted with conditions on this side were W. S. Northouse of the London Free Press Newspapers, late of Glasgow, a representative of a number of Scotch Emigration Societies, and W. S. Fitzhugh, a special agent appointed in 1822 by the American Chamber of Commerce, Liverpool, to supervise the emigrant ships and to safeguard the ignorant and unwary from unscrupulous brokers.³ Still more closely connected with the trade were J. Astle, an influential shipowner originally from London, but settled in Ireland for eight or nine years, an important member of the Dublin Chamber of Commerce, and A. C. Buchanan, an Irishman from Armagh, who for the last ten years had been an emigrant agent,

¹ *J.H.C.*, 1826, p. 167, and 1827, p. 178.

² *C.O.*, 42/209. Lord Dalhousie to R. Wilmot Horton, Nov. 14th, 1826.

³ *P.P.*, 1826, IV, 404, p. 296. Report of Resolutions of the American Chamber of Commerce, Liverpool, April 10th, 1823.

crossing and re-crossing the Atlantic, who recently had conferred with Lord Dalhousie on the emigration problem and carried with him from Canada an important despatch to the Colonial Office.¹ As well a long communication from the shipowners of Londonderry was considered.

The men summoned to give evidence were representative of the various interests concerned in the emigrant traffic. All these witnesses agreed in criticism of the Act as it then stood. The same clauses concerning the surgeon, the licence and provisions were attacked and again the danger of the trade going to American ships was stressed. All save Fitzhugh were agreed that the price of the passage had been so increased that many who wished to, were unable to leave the country. Uniacke was particularly insistent, and drew an interesting comparison with conditions on the voyage to Newfoundland and thence to Nova Scotia. Owing to the necessities of those going out each season to fish, there had long been special regulations for vessels sailing to Newfoundland,² and even these had been repealed by a recent Act dealing with the fisheries,³ so apparently many who went out ostensibly as fishermen never returned at the end of the season but passed on to settle in Nova Scotia, at a cost of about £3, whereas the direct passage would be about £10 and for young children from £5 to £6. "The difference of expense arises," says Uniacke, "from the passage to Newfoundland not being laid under the same restrictions . . . the Irish emigrant before he comes out, knows not what it is to lie in a bed; he has not been accustomed to pork in Ireland; if you put him in a bed and give him pork and flour you make the man sick; but when a man comes out to Newfound-

¹ C.O., 42/209. Lord Dalhousie to R. Wilmot Horton, Nov. 14th, 1826.

² P.P., 1826, IV, 404, pp. 38, 46, 71, 72, 172, 174, 325, 335 and 337. P.P., 1826, 1827, V, 237, pp. 60, 70-5, 189-90. This evidence, before the Committee for their second report, is repeated in their third report.

³ 56 Geo. III, c. 83.

land he gets no more than his breadth and length upon the deck of the ship and he has no provisions but a few herrings and he comes out a hearty man. . . . The first thing he does is to fit himself with a large chest because instead of five tons,¹ which the British Act of Parliament says must be allowed, he gets nothing but what his chest occupies ; his chest is his bed and his provisions are in it. . . . Then he earns a little in the fisheries and in that way he is enabled to pay for his second passage,"² to Nova Scotia. He evidently felt very strongly on the subject and although knowing the Acts "were calculated upon principles of humanity and great benevolence" he was "confident that they operated directly the reverse of what the legislature intended, for they have kept people at home in a state of actual starvation. These would have perhaps encountered much difficulty in the outward voyage, but it would at least have taken them away to a country where they would have been removed from any kind of starvation."³ When asked point-blank if he considered the repeal of the Act would renew the tide of emigration, he replied that in his opinion all that was necessary was a premium of 20s. or 10s. per head for the master if he landed his passengers in good health.⁴

The difficulty of the problem is very clearly shown by the fact that of all the witnesses the only one to declare in favour of repeal was Uniacke, a man who had apparently no interest to serve and who we know was a kindly man. In this way, he thought, the unfortunate would best be aided. Northouse did not express an opinion, but all the others, agents and shipowners alike, were agreed that some regulation was necessary. Astle considered this essential "or else . . . the cupidity of

¹ An exaggeration ; 2 tons only were allowed on British vessels.

² *P.P.*, 1826, IV, 404, p. 46. There follow many interesting details concerning the fisheries and the rivalry with the Americans.

³ *Ib.*, p. 38.

⁴ *Ib.*, p. 71.

the brokers would lead them to crowd the ships too much";¹ Fitzhugh was very definitely in favour of a code of restrictions; ² the Londonderry merchants thinking "it would not be right to do away with legislative interference," and that it was "absolutely necessary to provide for the comfort of the passengers and to restrict the number," gave in tabulated form their views on what restrictions were necessary.³ But it was Buchanan who was subjected to the most severe cross-examination. The way in which the questions were put by the Committee in 1827 seems to show that there was a desire to collect evidence that the Acts were unnecessary, but in spite of heckling, and in spite of the severe criticisms he himself passed on the Acts of 1823 and 1825, he maintained "that unless some legislative regulations existed captains and ship-brokers would be found that would cram them into any extent and great hardships would be likely to follow."⁴

As the majority of these experienced witnesses were in favour of maintaining regulations, although not so stringent as those in force, the Committee directed that a new Bill should be prepared. This was done by Wilmot Horton, in conjunction with Sir Alexander Baring, another member of the Committee, and introduced by him on March 26th, 1827.⁵ Its terms⁶ had already been discussed before the Emigration Committee on March 3rd by Buchanan, who strongly approved, and, as there would be a saving for each emigrant of from 12s. to 14s. without any loss of gain to the ship, he considered it would be readily accepted by both emigrants and shipowners. The reduction was secured by not including the crew in the proportion to tonnage, by dispensing with a doctor, and

¹ *P.P.*, 1826, IV, 404, p. 337.

² *P.P.*, 1826-7, V, 237, pp. 189-90.

³ *P.P.*, 1826-7, V, 550, p. 516.

⁴ *P.P.*, 1826-7, V, 237, p. 74.

⁵ *Times*, March 27th, 1827.

⁶ *P.P.*, 1826-7, I, 223. Bill, March 28th, 1827.

by allowing the passenger to supply his own food.¹ Otherwise the Bill very much resembled its predecessors in limiting the numbers to be carried in proportion to tonnage, and in minor regulations concerning lists of passengers and bond to be given. Although approved by a man experienced in the trade, the Bill was not so warmly received in Parliament, for the radical supporters of complete freedom showed fight even at this early stage. Sir J. Newport spoke in support of the argument that the true way to facilitate emigration was to render the passage cheap and Hume enquired rather aggressively if the Bill were not intended merely to repeal all existing regulations. This, Wilmot Horton replied, was a question which must wholly turn upon evidence and would best be settled in the Committee where further information would be procured.² The information was supplied by Fitzhugh, who was heard for the second time on March 31st. He gave a most elaborate criticism of minor clauses and omissions in the Bill, such as that there was nothing to prevent the relanding of water and provisions and that the imprisonment of the master for one month was too slight a punishment, but the principle he approved of and again stated his conviction that legal protection was necessary.³ The additional information had been obtained; again it was in favour of regulation.

The fate of the Bill was not, however, quietly settled, according to Wilmot Horton's plan, by the weight of evidence before the Committee. Feeling ran too high, for such regulations were opposed to the economic principles so generally accepted at the time. When Buchanan was before the Committee the questions put to him seem to show a desire to wring from him the admission that regulation was harmful, and when Fitzhugh was heard on March 31st, the warmest advocate of the humanitarian

¹ *P.P.*, 1826-7, V, 237, p. 73.

² *Times*, March 27th, 1827.

³ *P.P.*, 1826-7, V, 237, p. 190.

cause, Wilmot Horton, was not as usual in the chair. What followed is difficult to discover, but it appears that in his absence, and in direct defiance of the expert opinion they had heard, the Committee decided to recommend to Parliament the total repeal of all existing regulations.¹ Fighting strenuously during these years to end economic restriction, Joseph Hume's supporters in the Committee were determined that yet another oppressive and foolish code should be swept from the statute book—and their efforts were crowned with success. At the third reading, on April 9th, the whole character and title of the Bill was altered,² in spite of all the careful work and discussion which had gone to its drawing, and a new measure was substituted, very simple indeed, for it merely repealed the Act in force.³ The opinion of men of experience was set aside; the doctrinaire economists had won.

Miss Cowan thinks that Wilmot Horton was responsible for drawing up this Act of 1827 which repealed all regulations on the emigrant traffic.⁴ That he should have done so is difficult to believe; he had been chairman of the Committee and had heard the weight of evidence and opinion go in favour of regulation; he had other ideas besides those of pure economic theory and was at heart a humanitarian who would put first the welfare of the individual emigrant. That he did, however, strenuously oppose the drastic alteration of the whole character of the Bill is proved conclusively on the word of Buchanan,⁵ and also by a correspondent of *The Times*,⁶ who bears witness to the strong opposition offered by the zealous Under-Secretary, who fully anticipated and

¹ C.O., 42/214. W. Todhunter to Goderich, June 8th, 1827. C.O., 43/70, p. 50. R. Wilmot Horton to W. Todhunter, June 27th, 1827.

² *J.H.C.*, April 9th, 1827, p. 400.

³ 7 & 8 Geo. IV, c. 19.

⁴ H. Cowan, *op. cit.*, p. 206.

⁵ A. C. Buchanan, *Emigration Practically Considered*, 1828, p. 27.

⁶ *Times*, Dec. 29th, 1827, 2 f.

pointed out the evils which would ensue. Indeed Wilmot Horton's disgust and mortification as he saw the defeat of his measure can well be imagined. But he was persistent; and as in the following years he doggedly continued to fight for assistance for the pauper emigrant,¹ so he did not now give up.

As competent witnesses had maintained disastrous consequences would follow if the Passenger Act was repealed, Wilmot Horton's next step was to prove them right by investigating results. The dispatch sent out from the Colonial Office to the Governor-Generals in British North America, the day immediately following the third reading in the House of Commons, when with the triumph of the *laissez-faire* school, the title and whole character of the Bill were altered, asked simply that if the Bill should pass the other branches of the legislature, enquiries were to be made concerning the treatment of the emigrants during their passage and reports forwarded to the Colonial Secretary.² No attempt was made to indicate views held at the Colonial Office; unbiassed information was to be given and facts were to speak for themselves. If the supporters of the Passenger Acts should be proved right, then with an array of facts and figures to illustrate the sad consequences of the experiment they could renew their effort. In the meantime there was nothing to do but wait, while during June, July and August, agents, shipowners and masters, untrammelled by any restrictions, provided for the conveyance, across the Atlantic, of a record number of emigrants in whatsoever manner best pleased them.

Some indication of what to expect reached the Colonial Office within a fortnight of the final repeal. At Cork there lived a Quaker, William Todhunter, a man of some

¹ H. Cowan, *op. cit.*, Ch. VII.

² V. C.O., 189/12, p. 272. Bathurst to Sir H. Douglas. C.O., 43/26, p. 245. Bathurst to Dalhousie, April 10th, 1827.

education and good position, possibly himself interested in the shipping business, whose charitable heart had been touched by what he had seen on board the emigrant ships in harbour there. In 1826 before the question of repeal was mooted he had actually written to urge further measures for the protection of emigrants, to point out ways in which the existing laws were evaded, and to give practical hints.¹ Great must have been his consternation when all regulation went by the board but, although following anxiously what happened in Parliament, he restrained his impulse to make further representations, for his first letter had passed unnoticed. This self-imposed restraint gave way "on the score of humanity" when in June he learnt of two ships which had put back into the Shannon.² On one of 128 tons burthen there were packed 136 passengers, whose scanty provisions had given out within three weeks of leaving Ireland; on the other there had been serious mutiny amongst the passengers in which the life of the supercargo was threatened; nevertheless the magistrates discharged the case, which Todhunter points out proves there must have been weighty circumstances of excuse or extenuation for the emigrants' conduct. As he had determined to write he goes on to press the necessity for regulation; it was proved necessary before and surely is doubly so now when the number of emigrants is so much greater; the Americans, he maintains with Quaker simplicity, have imposed restrictions for which they can have no reasonable motive except Humanity, and yet England will offer no protection. From the new Colonial Secretary, Lord Goderich, this Irish champion of the humanitarian cause received only a curt note that the Act of repeal

¹ C.O., 42 214. Todhunter to Goderich, Nov. 8th, 1826, enclosed in Todhunter to Lord Goderich, June 8th, 1827.

² C.O., 42/214. Todhunter to Lord Goderich, June 8th and June 19th, 1827. Extracts from *Southern Reporter* and *Cork Commercial Courier*, Thurs., June 7th, 1827, and *Limerick Evening Post*, June 15th, 1827, enclosed.

was a matter of which he had no cognisance,¹ but the despatches sent earlier in the year, under the régime of Bathurst and Wilmot Horton, brought during August, September and October a number of replies which showed so forcibly the results of the repeal that Goderich's successor, William Huskisson,² was roused to action.

The request for information had been eagerly acceded to by the colonists. The secretaries of the Emigrant Societies in New Brunswick, in their eagerness to protest against indiscriminate pauper emigration, did not confine themselves, as Sir Howard Douglas points out in his covering letter, to the point at issue, and the Governor of Nova Scotia, Sir James Kempt, and the Governor of Newfoundland, Sir Thomas Cochrane, united in condemning in the strongest terms the evils which had occurred. In the first place the emigrants were not able to protect themselves against avaricious brokers and had not secured a cheaper passage—the great benefit to be expected. The broker fixed the price when he chartered the vessel, which before took as many as the law would allow, and when unrestricted, as many as he could cram on board, without altering the price. Then secondly the hardships of the voyage had been greater than ever before.

If the repeal of the Passenger Acts brought untold suffering to the emigrants it was no less disastrous, as the correspondence shows, for the North American Colonies. The emigrants came in such numbers that it was impossible to absorb them, particularly as they were for the most part without capital, mere beggars, squalid, loathsome and dejected. The result was that the unfortunate colonists were obliged to support them; at Miramichi half of the arrivals for that year were dependent

¹ C.O., 43/70. R. Wilmot Horton to W. Todhunter, June 27th, 1827.

² V. C.O., 189/12. Bathurst resigned April 30th, 1827, and Goderich, September 3rd, when he was succeeded by Huskisson.

on the bounty of the charitable; at St. John the expenditure in relief exceeded the receipts by 25 per cent. But, heavy as the burden was, some amongst the colonists were ready to give more than they could afford in order to hasten the departure of the emigrants,¹ for, as one writer states emphatically,

“ Diseases and distempers of the most virulent and appalling nature are introduced . . . and so far from the country deriving benefit from an increase of population . . . it is literally looked upon . . . from woeful experience as a curse.”²

In Nova Scotia, in spite of the establishment of a hospital and every precaution, out of a population of 11,000 about 600 died from fever occasioned by infection from the emigrants,³ and elsewhere in the Maritime Provinces it was also severe. Equally loud, however, were the complaints of the character of the emigrants—“ the very refuse of their own country,” “ self-reputed criminals sent by the police,” “ the scum of the population.” The direct result of their advent was an increase of crime, as at St. John, where out of the long list of criminals only one was a native of the province.⁴

These evils both for the emigrants and the colonists were in every case definitely attributed to the repeal of the Passenger Act. Suffering and disease were due to overcrowding and insufficient and unsuitable provisions, while the lowest class of emigrant only came to British North America, for anyone of better class who could possibly afford the freight went to the United States, under whose laws they would be protected on the voyage.⁵ In consequence the Governor-Generals of the three Mari-

¹ C.O., 188/35. Douglas to Goderich, Sept. 14th, 1827. Enclosure from Secretary of Central Agricultural and Emigrant Societies.

² C.O., 188/35. *Ib.* Enclosure from Miramichi.

³ C.O., 217/147. Kempt to Huskisson, Nov. 25th, 1827. See also for these references, *P.P.*, 1828, XXI, 112, pp. 3, 5, 9.

⁴ C.O., 188/35. *Ib.* Enclosure from St. John.

⁵ C.O., 217/147. *Ib.* Enclosure from H.M. Consul at Halifax. See also for these references *P.P.*, 1828, XXI, 112, pp. 4 and 10.

time Provinces, the Council at Halifax, and several of the private individuals whose letters are enclosed by Douglas, most earnestly asked for a re-enactment of the old regulations. They went further, however, and made more stringent suggestions. Kempt considered the 17th clause of 6 Geo. IV, c. 117, which exempted vessels from Ireland from the provisions of the Act, save for a general control vested in the Lords of the Treasury, as very unwise and wished for its repeal, while Cochrane protested also against the clause in the same Act which exempted vessels to Newfoundland and all hired servants coming to the fishery. This last clause was much abused, for all passengers claimed that they were hired servants. Finally, the magistrates of St. John had important suggestions to make—one of which was to be taken up years afterwards in modified form. The first was that a tax of 15s. should be exacted from every ship for each passenger, to be applied for the use of destitute emigrants, or that the British Government should pay the expenses of relief on an exact account being sent to them.¹ All were agreed that something must be done—the only difficulty was to decide what would be best.

On this side the well-known shipowners appear to have had a grudge against the less respectable owners who brought discredit on the whole trade by their greed, and also against the brokers, who chartered their ships and, when left to their own devices proceeded to cram on board as many emigrants as they could persuade to sail.² The Chamber of Commerce, Dublin, sent a vigorous petition begging, before that step was taken, that the Passenger Act might not be repealed, and William Todhunter took for granted that the Act must be restored.³

¹ C.O., 188/35. Douglas to Goderich, Oct. 16th, 1827. Enclosure. See also *P.P.*, 1828, XXI, 112, p. 7.

² C.O., 384/20. The Chamber of Commerce of Dublin, Petition to the House of Lords, April 26th, 1827.

³ C.O., 384/20. W. Todhunter to W. Huskisson, Feb. 9th, 1828.

Representative of opinion in England was W. Pemberton, who claimed an extensive acquaintance with shipowners there, and who was convinced that they were unanimously in favour of restriction, as were also the shipowners of Ireland as he could personally vouch.¹ Fitzhugh was closely watching the progress of events at Liverpool, according to directions from the Colonial Office, and reported news received of the *Freedom* and other vessels sailing to New York; he was particularly concerned on account of the frauds practised on emigrants by the unscrupulous brokers and agents at Liverpool. He was a warm advocate of the Passenger Acts and, against the opinion of other witnesses before the Committee, felt that it had not checked emigration. The account of their sufferings sent home to their friends by the emigrants, in his opinion, would have a far more serious effect.² Indeed, the horrors on board the emigrant vessels seem to have been public property as the correspondence in *The Times* shows. The case of the *James* was there reported, with further details of the appalling conditions in Nova Scotia, and à propos a stinging editorial in which the blame is laid on the blameless Wilmot Horton. Such was the result, it is suggested, of all his fine schemes, and incidentally political capital had been made for Daniel O'Connell, who read this account at a Catholic meeting to prove that the only cure for the miseries of the country was Catholic Emancipation!³ It is satisfactory to find that there were others ready to defend Wilmot Horton who pointed out that the repeal of the Passenger Acts and the dreadful consequences had nothing to do either with him or with his schemes for assisted emigration; he never recommended sending out in one ship three to four times as many people as the vessel

¹ C.O., 384/20. W. Pemberton to A. C. Buchanan, March 21st, 1828.

² C.O., 384/17. W. S. Fitzhugh to E. G. Stanley, Nov. 24th, 1827.

³ *Times*, Dec. 27th, 1827, 4b.

would hold, and if several shiploads of Irish eaten up with filth, vermin and contagious disease were landed on the banks of the Thames they would fare no better than in Nova Scotia.¹ The sane remedy was to renew the old restrictions and the writer looks forward to a new Act.

"Surely," he argues, "the lives of our fellow creatures are of as much importance as those of birds and animals, which so occupy the legislatures of the country. If a negro, going from one West Indian Island to another perished for want of proper care all the country would be clamorous. Yet the fact of the perishing of many hundreds of our poor Irish last summer from suffocation, want and disease caused by the repeal of the protecting laws for passengers, seems to be nothing."²

On each side of the Atlantic sympathy had been shown and men considered it a matter of very great importance; indeed, the Colonial Office had already taken the matter in hand. Wilmot Horton was no longer there, but his successors, moved by the reports which came in answer to the despatch sent while he was in office, were ready to do all that he would have done, and to work in co-operation with him for a renewal of those protecting laws. It was a time of political crisis due to the resignation, first of Lord Liverpool and then of Canning, but in the reshuffling of offices which ensued the work went forward. On April 30th, 1827, after his long term of office, Lord Bathurst resigned, to be succeeded by Lord Goderich; on September 3rd he became Prime Minister and gave up the Colonial Office to William Huskisson. Wilmot Horton's post of Under-Secretary was held first by Mr. E. G. Stanley, later as fourteenth Earl of Derby to be the leader of the Conservative Party, and after January 1828 by Lord Francis Leveson-Gower. It was Huskisson who received the despatches from

¹ *Ib.*, Dec. 29th, 1827, 2f.

² *Ib.*, Feb. 28th, 1828, 5a.

America, and in reply, after deeply lamenting the distressing consequences of the repeal, he pledged himself and the Government to take steps to prevent the recurrence of such disgraceful scenes.¹ Through the winter months Stanley dealt with the correspondence on the subject,² and by the end of the year it was generally understood that the Government were about to move in the matter.³ In January the new Under-Secretary, Lord Francis Leveson-Gower, took over the nominal superintendence of the new Bill,⁴ though the real hard work fell on the shoulders of the legal adviser of the Office—James Stephen.

It was indeed a question for experts, and Stephen was fortunate in being able to draw upon the experience of a man long acquainted with the trade, A. C. Buchanan, who prepared a paper on which the Bill was based⁵ and who seems to have been constantly in attendance at the Colonial Office in the spring of 1828. Wilmot Horton as well gave his advice and assistance,⁶ and it was left to him to move for leave to bring in the new Bill, which he did on March 4th. Needless to say, those who had succeeded the year before in sweeping away all restrictions were in arms at once, and on that day and on March 18th, when the Bill came up for the second reading, the battle was fierce and long. At last the whole principle of regulation was adequately debated by men of the first rank in Parliament and the debate considered of sufficient importance for a full report in Hansard.

¹ C.O., 189/12, p. 299. W. Huskisson to Sir Howard Douglas, Oct. 30th, 1827.

² V. C.O., 43/70, pp. 292 and 337. E. G. Stanley to W. S. Fitzhugh, Nov. 30th, 1827, and to W. Todhunter, Dec. 31st, 1827.

³ *Times*, Dec. 29th, 1827, 2f.

⁴ C.O., 384/35. Notes on memo. of proposed amendments for the Passenger Act from A. C. Buchanan, Aug. 1834.

⁵ C.O., 384/35. Note on schedule of amendments for the Passenger Act by A. C. Buchanan, August 1834.

⁶ C.O., 384/20. Note on letter from Committee of Privy Council for Trade to R. W. Hay, Feb. 5th, 1828.

In the opening encounter on March 4th,¹ Hume and Warburton argued that there was no reason why the Act should be revived and again that emigration must be cheap "if good for anything," that the disease amongst the emigrants was not due to the repeal of the law, as it had existed before, while its spread on board ship was due to infection, and both insisted that the evidence was inadequate and demanded time for examination and consideration. Huskisson replied with a circumstantial account of the ravages of typhus on board the *James* and stated "he was unable to understand the nature of those pure abstract principles, which were to prevent them from interfering where the interests of humanity were at stake. He could not conceive the meaning of those general principles which were never to bend to circumstances," and this was a case in which most certainly complete freedom could not be allowed because of the terrible consequences which had followed. Stanley supported this argument,² for he had himself advocated repeal before he knew to what it would lead, but now was convinced of his mistake. Regulation of stage-coaches had been found necessary for the safety and comfort of those who travelled and the same principle applied to emigrant ships if, when there were no regulations, conditions were worse than on a slaver. By this piece of evidence from the colonial despatches, which had been printed for members of Parliament, he was particularly impressed. After two other members had spoken in favour of some restriction leave was given to bring in the Bill.

At the second reading³ on March 18th, Mr. Warburton opened the attack in indirect fashion by launching out into a general consideration of emigration. With truth he pointed out that there were two conflicting opinions ;

¹ *Parl. Deb.*, Vol. XVIII, New Series, March 4th, 1828, p. 962.

² *Ib.*, p. 963b.

³ *Ib.*, March 18th, 1828, p. 1208b.

first, that of English and Irish gentlemen that emigration ought to be encouraged in order to dispose of the paupers and to thin out the numbers in disaffected districts in Ireland, and second, that of the colonists, that emigration should be restricted for the very reason that they did not wish to receive people of this description. This point of view seemed to him a new one, gleaned from the correspondence before Parliament, so incidentally the question of the Passenger Act was useful in bringing home the fact that the colonists bitterly resented their country being made a dumping ground for the refuse of British population. The remedy seemed to be Wilmot Horton's solution—assistance from government or the local authorities. But still voluntary emigration must not be checked and therefore it would be far better to refer the Bill to a committee before which all parties interested, and especially the Irish shipowners, might be heard. The proposal of a committee was the line of attack the *laissez-faire* party were going to take; the delay would mean another season at least in which their plan could be tried out with perhaps less disastrous results.

That the committee would entail delay was pointed out by a following speaker,¹ who opposed such a suggestion, as he considered "the present state of the passenger law . . . monstrous and a disgrace to the country," but another member, considering the Bill to be designed for the benefit of the colonists as it would impede emigration, supported Warburton. Then Huskisson rose to reply.²

"He could not consent to speak of these people—the most helpless and uninformed of the community—as of a mere commodity which was the subject of export from one locality to another"; he was surprised by the members' arguments; to say that typhus was due only to infection was against the opinion of experts who attributed it to want of order and cleanliness,

¹ *Parl. Deb.*, Vol. XVIII, New Series, March 18th, 1828, p. 1210b.

² *Ib.*, p. 1211b.

and on board the *James* to lack of food ; that the Act would check emigration was unlikely, for the accounts of the miserable fate of the emigrants when unprotected by law, would have a far more serious effect ; that there was no necessity for regulation was ridiculous, for even in the time of the slave trade there had been a law regulating the number of slaves by the tonnage upon the middle passage and "that which we had thought it right to do for the negroes of Africa ought we to refuse to do for our own countrymen ?" "It was then the duty of ministers and their imperative duty to call upon Parliament for power to put a stop to these enormities ; and with his best exertions, even in the teeth of science and philosophy, he would oppose the proposition of going into a committee which would allow the opportunity of their perpetration during another season."

This was indeed a challenge, and probably meant as such, to the doctrinaire economists, and as might be expected Hume took it up.¹ First, in his reply he criticised the Passenger Acts with greater warmth than accuracy, stating that before 1817 emigration had gone on very well, but in that year the trade had been cramped with laws which only put an end to it, and that the whole provisions of the Act were calculated to do nothing but mischief ; but Huskisson's change of front was his chief point of attack.

"He was surprised to find the professed advocate of free trade supporting a bill like that before the house . . . he could not see the consistency of this conduct on the part of . . . the advocate of the principles of free trade. . . . It was an odd change in tactics . . . but not quite his first, he went on wavering. He had begun well ; now he was going on not quite so well, and it was difficult to say where he would land at last. For himself he was against the bill together. He would have no interference whatever with the Irish who might wish to emigrate. Every arrangement by legislation would be only injurious to them."

He was supported by Sir J. Newport with yet another inaccurate statement that for fifty years emigration had been going on without any legislative interference and

¹ *Ib.*, p. 1214a.

no evils had resulted! This gave a great opportunity to Wilmot Horton, who followed,¹ and who should have known better than to let such a statement pass, but in his muddle-headed way, carried along by the warmth of feeling aroused on behalf of the colonists who had suffered from the influx of wretched and destitute emigrants, he launched out into a tirade on his pet subject. His words poured forth in a confused stream, chiefly in the form of heated rhetorical questions, but he did return to the point at issue to ask "if anything could be more reasonable or humane than that regulations should be enforced" and to state his astonishment "that honourable gentlemen were not ashamed . . . to object . . . on the ground that they were in violation of the principles of free trade."

Very different in style was the neat little speech of Mr. Stanley; ² he admitted the zeal and humane intentions of Wilmot Horton, but regretted he had left the point at issue to mix up a theoretical question with one which was purely practical. He agreed, however, with his opinions on the Bill and asked if one-twentieth part of the evidence before the House had reached Hume whether they should ever have heard the end of his comments. "The honourable member had set himself up as the apostle of free trade; but admitting his apostleship, he must dispute his doctrine that in no case and under no circumstances were the principles of free trade to be departed from." The debate was not to close, however, without another gibe at Huskisson. Poulett Thomson criticised the tone and temper of his speech and "gave great credit to that right honourable gentleman for his principles of free trade and wished him joy of his steady adherence to them. His maxim seemed to be 'Video meliora, proboque deteriora sequor.'" In Thomson's

¹ *Parl. Deb.*, Vol. XVIII, New Series, March 18th, 1828, p. 1215b.

² *Ib.*, p. 1218b.

opinion there was no comparison between a slave and an emigrant, for the latter acted voluntarily and members must not forget the other side of the picture and the misery of those who were prevented from emigrating by such an Act. No case, in his opinion, had been made out for the proposed regulations and so he considered they should be submitted to a committee above stairs. Mr. Stuart Wortley replied in favour of regulations, as after the evidence which had been laid before the emigration committee there was no one who could doubt that they were necessary. After two more short speeches the debate closed and the Bill was read for a second time.

Great opposition was offered all through the passage of the Bill and much trouble must have been caused. Two bills ¹ were printed, the original one as drafted by the Colonial Office and the second with minor alterations as amended in committee on March 20th. Huskisson was in a very great hurry to get the measure through early in the session and for fear of delay, allowed a serious mistake in printing the Bill after the third Reading to pass.² But in the Lords, on the suggestion of the Lord Chief Justice, Lord Tenterden,³ who was also the great authority on the laws concerning merchant ships and seamen, the Bill was subjected to further criticism and amendment: and again, rather than delay it by a further discussion in the Commons, the authorities at the Colonial Office allowed it to go through.²

At last on May 23rd the Act became law.⁴ Compared with the Act of 1823, or even with the original Act of 1803, it was a modest measure; especially after the opposition to the very principle of regulation, the object was to impose the very minimum of restriction. Instead

¹ *P.P.*, 1828, I, 104 and 171. Bills dated March 6th and March 20th.

² *C.O.*, 384/35. Notes on Memorandum submitted by A. C. Buchanan to H.M.'s Government.

³ *D.N.B.*

⁴ 9 *Geo. IV.*, c. 21.

of one person, including crew, to be carried for every 2 tons registered burden, the proportion was to be three adults to every 4 tons; the height between-decks was to be $5\frac{1}{2}$ feet, but goods occupying 3 cubic feet might be carried in respect of every passenger below the legal number; and instead of the complicated rules about provisions it was only laid down that 50 gallons of water and 50 lb. of bread-stuff were to be carried for every person.

The measure marks an important stage in the history of the Passenger Acts, which here pass under the ægis of the Colonial Office, whose authority and guardian interest stretched to the far side of the ocean.

After Huskisson resigned the Secretaryship of State in 1828, there came a period of torpor and inactivity in the Colonial Office, during which Henry Taylor, afterwards Permanent Under-Secretary, a young and energetic clerk, lost all interest in his work.¹ According to him the change was due to the influence of the heads of the department. The Secretary of State, Sir George Murray, was satisfactory "if to look the character were the one thing needed,"² but the Under-Secretary, Lord Francis Leveson-Gower, was "of all the Under-Secretaries who ever laid the weight of their authority upon . . . the Colonial Office the fleshiest incubus, obstructive through timidity and indecisiveness, for ever occupied with details."³ The Permanent Under-Secretary, R. W. Hay, he considered as "obtuse but bold," a man who went straight to a decision and kept to it, whether right or wrong. He seems as well to have been a painstaking and interested official, but with two such superiors nothing was done and the years 1828-9 are fallow in the history of the office. A change came with the accession of the Whigs to power in 1830. The Secretary of State was

¹ Sir Henry Taylor, *Autobiography*, 1800-75, 1885, p. 67.

² *Ib.*, p. 117.

³ *Ib.*, p. 117.

“Prosperity Robinson,” now elevated to the peerage as Lord Goderich. As Prime Minister in 1827 his weakness and indecision had been lamentable,¹ and he was to earn from Cobbett the new nickname of “Goody Goderich” for his want of vigour as Colonial Secretary. However, he was, according to Taylor, an easy and good-humoured man, more active in his office than was expected,² and from the despatches he does seem to have realised the significance and great importance of emigration, both to the Mother Country and to the Colonies. His junior was Lord Howick, afterwards third Earl Grey, who had all the decision and self-confidence which his colleague lacked;³ his “vehement public spirit” infused new vigour at the Colonial Office, and projects and interests which had long lain dormant sprang into life and activity.⁴ Goderich and Howick were in control till 1833, when after pressure from Lord Grey, Goderich resigned his office to E. G. Stanley. He proved an energetic and capable administrator⁵ during the year he held the reins, and then there followed two years of constant change whilst Whigs and Tories went in and out of office and no one was in power long enough to do anything but carry on the work outlined by his predecessor:

Goderich's interest and Howick's activity resulted during 1831 in various important measures dealing with emigration. Wilmot Horton had had great schemes for enabling parishes to mortgage the Poor Rates in order to provide funds for the emigration of paupers and Howick attempted to carry on his work by the Emigration Bill of 1831.⁶ It did not, however, reach a second reading and it was left for the great Poor Law Act of 1834⁷

¹ *D.N.B.*

² Taylor, *op. cit.*, p. 118.

³ *D.N.B.*, Supplement. G.E.C. Complete Peerage, VI, 1926.

⁴ Taylor, *op. cit.*, pp. 118 and 124.

⁵ Taylor, *op. cit.*, p. 131.

⁶ H. Cowan, *op. cit.*, pp. 170-2.

⁷ 4 & 5 William IV, c. 76. *P.P.*, 1831-2, XXXII, 334. *Report on Waste Lands and Emigration* from Mr. John Richards.

to provide by clauses LXII and LXIII for emigration of this kind under the parish authorities. Meanwhile the heads of the Colonial Office were interested in Wakefield's schemes for colonisation, and were taking steps to learn all they could of the conditions and possibilities for emigration overseas. An under official, John Richards, was sent on a special mission of enquiry to British North America ¹ and Goderich wrote to Lord Aylmer directing that he should send an account "of all transactions" which would enable him to have a complete knowledge of all that was "passing on a subject so interesting to the Empire at large." ² The result of this was a very lengthy despatch from Aylmer ³ and the yearly transmission from now onwards of detailed reports from Quebec. But the most important step taken by Lord Goderich was the appointment of a special body of Commissioners to devote themselves entirely to the question of emigration. ⁴ These were the Duke of Richmond, Viscount Howick, Henry Ellis, F. T. Baring and R. W. Hay, with a junior clerk as Secretary, a man later to be closely connected with emigration—T. F. Elliot.

Although they only held office from July 1831 to August 1832 ⁵ they accomplished valuable work, chiefly by collecting information concerning the different colonies from the respective governments, and by publishing broadcast sheets and pamphlets giving reliable information as to the opportunities available overseas and the best and cheapest means of emigrating. ⁶ As far as his passage was concerned, from the Commissioner's instructions the intending emigrant could learn amongst other things that the usual price to Quebec or New Brunswick from Liver-

¹ *Ib.* ² C.O., 43/28. Goderich to Aylmer, Aug. 3rd, 1831.

³ C.O., 42/233. Aylmer to Goderich, Oct. 12th, 1831.

⁴ C.O., 384/27. Goderich to Commissioners of Emigration, July 1st, 1831.

⁵ *P.P.*, 1831-2, XXXII, 724. Goderich to Commissioners of Emigration, Aug. 4th, 1832.

⁶ *Ib.*, *passim*. Report of Commissioners of Emigration, 1832.

pool, Greenock and most Irish ports was £3, the ship providing water, fuel and bed places, and £6 if food was provided as well: that prices were higher as the season advanced; that a 50 days' supply of food was necessary and, if sailing from London, 75; that his safety and comfort was guarded by a Passenger Act, the terms of which were given, with directions to address complaints to the nearest Custom House. He was in addition most gravely warned against the perils of fraud and every kind of deception which probably awaited him at the seaport town from which he was to sail. His own good sense would be his best protection, but a wise precaution was to insist on a written contract for the day of sailing, after which he was to be received on board and victualled whether the vessel sailed or not.¹ The Commissioners were indeed seriously troubled by the hardships to which emigrants were exposed, but they hoped that their directions and the desire of the colonial authorities to co-operate in the enforcement of the law would lead to better days.²

With all this activity in the interest of emigration one would expect to find some action taken to amend the Passenger Act of 1828 which had been passed with the idea of future revision, and which was being subjected to such adverse criticism in America. This, however, was a measure too provocative and difficult for Lord Goderich's cautious and irresolute temperament. It must have been with delight that he received the suggestion from the Colonies of an immigrant tax through which pressure might be brought to bear on defaulting masters. It had been the subject of his "most anxious consideration to discover some means of obviating the various causes

¹ *Ib.*, p. 9. Instructions issued by the Commissioners for Emigration, Feb. 9th, 1832.

² *Ib.*, p. 6. Report of Commissioners for Emigration to Goderich, March 15th, 1832.

of complaint,"¹ but he was unwilling to face the difficulty of drawing a new law and here was a compromise after his own heart. He willingly gave his consent to what was really a colonial measure, not realising that to some extent he was allowing the control of emigration to pass from the Mother Country. When later in 1833 the question was brought to his notice he again shelved the difficulty. He agreed that the suggested amendments would be useful "on a future occasion" but "doubted whether taken by themselves the advantage to be expected of them would outweigh the inconvenience and difficulty of altering the existing law."² There did seem to be a general fear of the strength of the *laissez-faire* school of opinion in Parliament, and it was thought that the existing regulations were better than none at all—which might be the case were the Act subjected to the hazards of another public discussion. In reply to suggested amendments from another quarter T. F. Elliot wrote:

"The extreme difficulty of passing a law of this description through Parliament, where it is sure to be warmly contested as well by the advocates of conflicting theories in Political Economy, as by the representatives of opposing interests in commerce, must be a conclusive objection to reintroducing the subject for the sake of making subordinate amendments."³

Great effort was, however, made under this administration to secure obedience to the existing law when reports of its evasion were sent from America. The memorial from the Mayor and Corporation of St. John,⁴ complaining

¹ P.P., 1831-2, XXXII, 730. Circular letter, Goderich to Governors of Lower Canada, Nova Scotia and New Brunswick, Dec. 11th, 1831.

² P.P., 1833, XXVI, p. 21. Correspondence with Governors in Australia and British North America concerning Emigration. Goderich to Aylmer, March 8th, 1833.

³ C.O., 42/239. Memo. by Elliot on North American Colonial Association Paper. March 20th, 1832.

⁴ C.O., 188/41. Memorial enclosed in President Black to Goderich, May 25th, 1831.

of the deficiency of provisions and water, and the consequent disease on vessels from Ireland, resulted in a representation from Goderich to the Lords of the Treasury suggesting that had the provisions of the Act been enforced by the Customs officials there would have been no cause for complaint, and asking in polite and official terms, that for the future they should do their duty.¹ The Commissioners of Customs were stung to prompt and drastic measures; as no specific charge against particular vessels had been made they demanded from all the ports in Ireland a return of all the ships cleared for North America during the last three years with particulars of the steps taken to enforce the Act. These were satisfactory except those from Belfast where the officers had not enquired into the quantity and quality of the water and provisions on board, as they had considered the giving of bond a sufficient security for the compliance with the law.² They were informed of their mistaken idea and a strongly worded general order, to be found amongst the Customs Papers at Liverpool, was issued to all the out-ports to give notice that the Board would in future enforce in the strictest manner all penalties incurred. Printed notices³ to this effect were to be fixed up at the Custom House and handed to the masters of vessels, and special care was to be taken that the clauses concerning numbers, the preparation of a correct list of passengers, and the giving of bond were observed.⁴ If the names of particular vessels were sent to them, the Commissioners declared their willingness to institute a strict enquiry as to the inspection made by their officers.

¹ C.O., 43/75, p. 20. R. W. Hay to J. K. Stewart, July 9th, 1831.

² C.O., 384/27. Report from Commissioners of Customs to the Lords of the Treasury, Aug. 19th, 1831.

³ For an example of one, see C.H., *op. cit.*, amongst papers concerning the *Daniel O'Connell*.

⁴ C.H.L., General Letters, 1831-2. C. Sewell to the Collector and Controller, Liverpool, Sept. 15th, 1831.

This they had already done in the one definite case they had heard of from another source—that of the *Pilgrim* of Newry; she had been visited at the clearing station at Warren Point by the Customs officer, who was satisfied by his inspection that the law was obeyed, but apparently many more passengers had been taken on board, as slowly she made her way down the long and narrow inlet of Carlingford Loch. To prevent a repetition of the offence a Customs officer was ordered to remain on board till the ship had crossed the bar and was well out to sea.¹ The Board followed up their measures at home by issuing orders to their officers in America to report any irregularities connected with the clearance of emigrant vessels so that the officers at home might be brought to book.²

But the Customs officers were very busy men, and especially at the great ports the multiplicity of their duties must have made it very difficult for them to be conscientious guardians of the law, while it was quite beyond their duty and powers to stop the frauds to which emigrants were exposed before they set foot on board the ship. It had been felt in America that such work could be done only by specially appointed agents at the out-ports, and in 1832 the idea was again brought forward by different public bodies in Liverpool. That year general indignation had been caused by the return to port of the ship *Brutus* after 83 deaths from cholera amongst the poverty-stricken emigrants,³ and the Board of Health in Liverpool demanded an enquiry not only as to whether the terms of the Passenger Act had been obeyed, but also as to whether the appointment of an agent to superintend the ships might not be

¹ C.H.L., General Letters, 1831-2. C. Sewell to the Collector and Controller, Liverpool, Sept. 15th, 1831.

² C.H., *op. cit.*, Commissioners of Customs, London, to Collector and Controller, Quebec, June 4th, 1832, and other papers.

³ C.O., 384/30. A series of letters and papers on the case of the *Brutus*.

advisable.¹ The Customs officials, after showing that in the case of the *Brutus* the law had been observed, agreed that an agent could do good work if he were given special powers to prevent the exactions of passenger brokers; ² certain other merchants had already suggested the idea ³ and finally the Mayor wrote to Lord Goderich describing the notorious practices of the agents "painful to witness," but beyond the powers of the magistrates to stop, and asked as the only remedy for the appointment as agent of an active naval officer to warn and counsel and protect.⁴

Lord Goderich was favourably disposed to the suggestion, but as he hesitated to carry it into effect, owing to the difficulty of defining the duties and raising the salary,⁵ it was left to his more forceful successor Stanley to make arrangements for the appointment. He considered that emigration was "becoming so extensive and so systematic"⁶ that it was "very desirable to afford any facilities on the part of Government" and proceeded, in return for his full pay as a naval officer and £100 for expenses,⁷ to assign to the agent any and every duty. Not only was he to give gratuitous information to all who asked as to the sailing of ships and accommodation on board and to see that all engagements entered into with emigrants were duly performed, but also he was to correspond with any parish authorities who wished to commit consignments of pauper emigrants to his care, to receive remittance of their money and to

¹ C.H.L., Collector to Board, April 1832-Aug. 1832, p. 110. Report of Meeting of the Board of Health held June 21st, 1832.

² *Ib.* Report of Collector and Controller, Liverpool, July 2nd, 1832.

³ C.O., 385/11, p. 75. Howick to J. W. Evans, July 2nd, 1832.

⁴ C.H.L. Enclosed in Board to Collector. Charles Horsfall, Mayor of Liverpool, to Goderich, Jan. 4th, 1833.

⁵ C.O., 385/11, p. 75. Howick to J. W. Evans, July 2nd, 1832.

⁶ C.O., 384/33. Private letter, E. G. Stanley to Lord Althorp, April 20th, 1833.

⁷ C.O., 43/77. R. W. Hay to J. Stewart, Secretary to the Treasury April 27th, 1833.

arrange their passage. Not only was he to enforce the Passenger Act in the case of vessels sailing to British North America, but also by "remonstrance," because there was no legal penalty, he was to check all objectionable practices on those bound to the Australian colonies. In addition he was to seek out suitable lodging-houses and to keep books containing the names of every individual he helped and the vessel in which they sailed.¹ The man brave enough to undertake this herculean task was Lieut. Robert Low, R.N. He arrived at Liverpool on May 5th, 1833, and after waiting on the Mayor with his letter of recommendation he was furnished with an office at No. 33, Union Street.²

Before Low could start work in earnest he had to become acquainted with the iniquitous system which had grown up since the close of the Napoleonic wars in Liverpool, as in all seaports from which emigrants sailed. Originally they had made their way to Liverpool without knowing even if there was a ship in harbour bound for the port at which they desired to land, but trusting to luck that they would find one. Strangers in the town, they were dependent on the information given to them at their lodgings, and as the masters soon began to reward the lodging-house keepers by a commission on the passage money of those recommended to them, certain of these men somewhere about 1817 undertook to supply vessels with a fixed number of passengers on commission. Finally, they chartered the whole between-decks of the ship, taking the small risk of being able to procure enough passengers to pay the master the price agreed. Usually they were able to make a huge profit over and above this sum, as they were free to make their own terms with the passengers and crammed on board as many as were allowed by law—and sometimes more. These passenger brokers

¹ C.O., 43/77. R. W. Hay to Lt. R. Low, May 15th, 1833.

² C.O., 384/32. R. Low to R. W. Hay, May 6th, 1833.

were from the first men of low character with no reputation to sustain and cared for nothing but their profits.¹ In order to secure as many passengers as they could, they in their turn employed agents to sell tickets on commission, who either travelled the country with specious tales, or hung about the docks where hundreds of poor Irish arrived each day by the steam-boats. Lest any should escape, the agents employed "runners," touts of the worst character, to entice the bewildered emigrant to their offices and in the competition one against the other, they deceived him in every sort of way. They sold tickets for ships which could not sail for weeks; they took the money and never provided a passage at all; they closed on the luggage so that a bargain could not be made with a rival agent; they recommended lodging-houses kept by themselves or their friends where the emigrant was fleeced again; they sold to him bad provisions at an exorbitant price.² The merchants, to begin with, never interfered in the bargain, which was generally made between the master and the passenger broker, but in 1822, when these evils became notorious, the American Chamber of Commerce appointed the head of one of the most respectable firms of brokers their agent, in order to check the evil by giving the whole business to one man over whom they would have control.³ This was W. S. Fitzhugh,⁴ who gave evidence in favour of the Passenger Act and also concerning these scandals

¹ C.O., 384/32. R. Low to R. W. Hay, Dec. 19th, 1833.

² C.O., 384/32, *passim*. In particular R. Low's report of complaints against passenger brokers sent July 13th, 1833. See also *P.P.*, 1826, IV, 404, p. 296. Report of a Committee of the American Chamber of Commerce appointed Aug. 16th, 1822, concerning impositions on emigrants.

³ *Ib.*

⁴ William Sudlow Fitzhugh, book-keeper, 2 Dover Street (*Gore's Directory*, 1821), resided at 11 Mount Street and is described as broker, with passengers' office at 4 Cooper's Row, in 1825 (*Baines' Directory*, 1825); of 12 Mount Street, general agent with passengers' office for emigrants at 10 Brooks' Square, in 1827. (*Gore's Directory*, 1827; *Picken's Directory* gives 11 Brooks' Square.)

before the Emigration Committees. This attempt at monopoly did not work, however, and a prosecution instituted as an example having cost over £150 the Chamber of Commerce did not repeat the experiment. The magistrates had also attempted in vain to check the evil; though these rogues were often summoned before the bench, as they were not guilty of a criminal offence they could only be dismissed with a caution, while owing to the expense and the delay involved it was impossible for an emigrant to institute a case before the civil courts.¹ Other authorities had failed to remedy the evils; it was now for Low² to try his hand.

He began work at once by inspecting all the emigrant ships in harbour; ³ on those sailing to British North America he insisted that the Passenger Act was obeyed and arranged with the Customs officials that no vessel should be cleared without his certificate to that effect,⁴ while on those bound for Australia by vigorous remonstrance he attempted to secure the safety and comfort of the emigrants.⁵ Soon the unscrupulous agents and brokers were like a swarm of angry bees in their anger and consternation, but Low was quite unmoved by their fury and was supported by all the men of decent feeling in the town. The magistrates of course did all they could to help him, the Customs officials, as well as in-

¹ C.O., 384/35. E. Miller to R. W. Hay, May 19th, 1834.

² Lt. Robert Low(e), R.N., resided at 27 Ashton Street, Pembroke Place, in 1835 (*Gore's Directory*), and is described as Agent to the Government Emigration Office, 33 Union Street, with office hours ten to four o'clock. By 1841 the Emigration Office, and Irish Pass-House at 16 Union Street, is under the direction of Lt. John Henry, R.N., Agent, and Mr. Robert James, Master R.N., Assistant-Agent (*Gore*), a staff which increased further in later years when the office was removed to Stanley Buildings, Bath Street. The identity of No. 33 Union Street, in 1835, with No. 16 in 1841 is rendered more certain by the marking of the office in *Gage's Survey* of 1836 next house but one above Jackson's Lane, Union Street, the position now occupied by No. 18 to-day (1930), shown in Fig. 15.

³ C.O., 384/32. R. Low to R. W. Hay, May 15th, 1833.

⁴ C.O., 384/32. R. Low to R. W. Hay, June 29th, 1833.

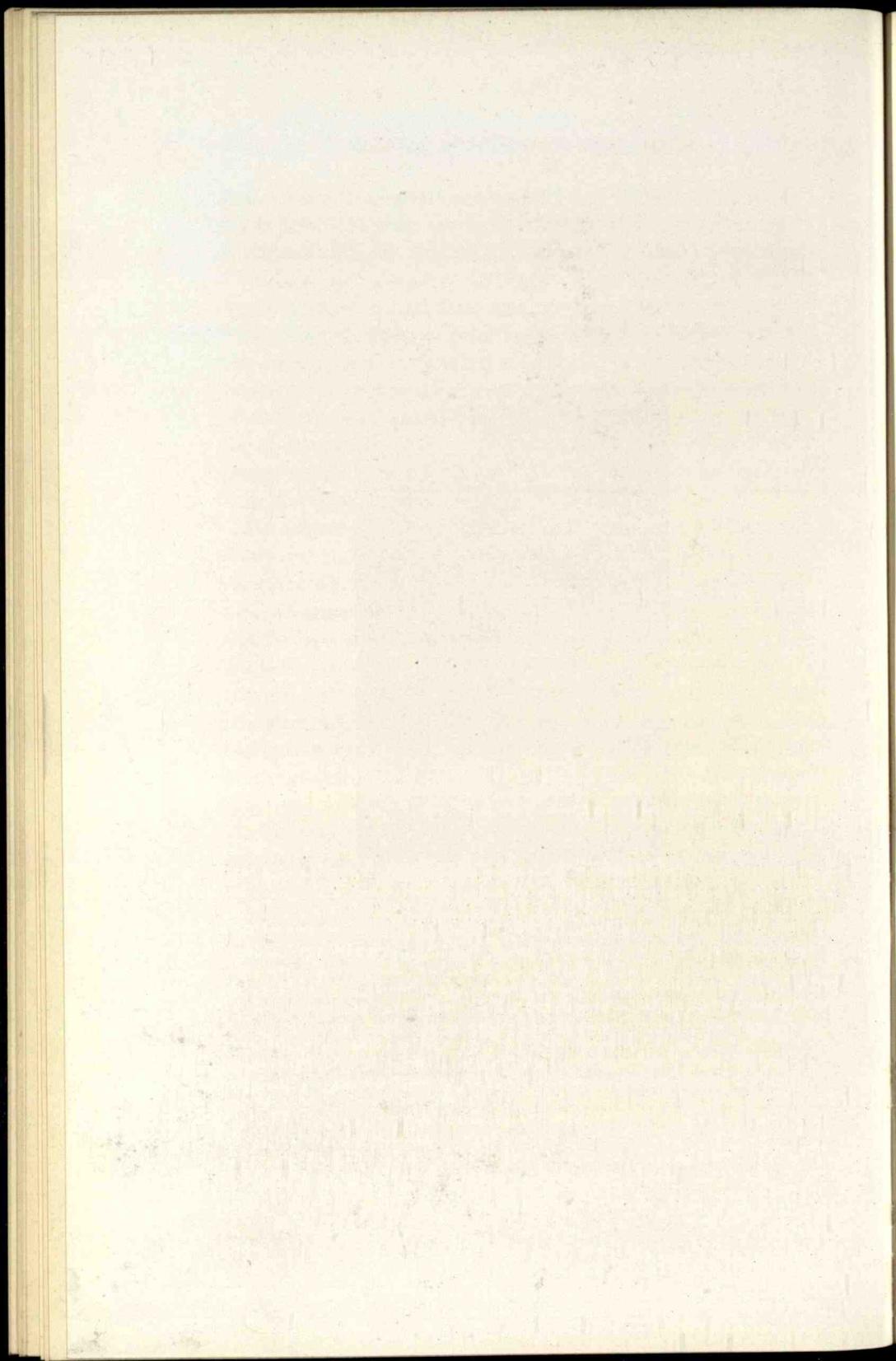
⁵ C.O., 384/32. R. Low to R. W. Hay, May 10th, 1833 and *passim*.

FIG. 15.



GOVERNMENT EMIGRATION OFFICE,
UNION STREET, LIVERPOOL.

(Photograph by *Richard Brown.*)



sisting on his certificate before clearing a vessel, allowed him the use of their boats,¹ and finally he secured the interest of the superintendents of the city and dock police who ordered their men on beat to stop the touting of agents and "runners" and to direct emigrants to Union Street.² There Low had established a clerk, as he himself was out practically all day, for the whole burden of inspection and remonstrance fell on his shoulders. So busy was he that he writes, "I have not one moment to spare and very frequently not time to get my meals, but God has blessed me with a good constitution and the consolation of being of service here to these poor people . . . renders my situation very agreeable."³ From his letters detailing all these activities it is possible to catch many a vivid glimpse of Liverpool at that time; one can picture Union Street and a furtive watcher at the foot of the stairs of No. 33, who turned away all the emigrants who hopefully came to the government office with the assurance that it was no longer there—and also the sequel, when Low discovered the broker responsible and having hotly accused him, received the insolent answer that he would continue to warn off emigrants from the office as long as he wished;⁴ one can imagine the confusion on the crowded decks of the *Bolivar* with 9 oxen, 40 sheep, 11 pigs, and 34 emigrants on board, as well as 400 tons of coal, salt and iron and 60 tons of copper dross, and also the heated argument between the master, the charterer and Low as to whether she might with safety be loaded deeper.⁵ It is impossible to follow the government agent through all his activities, but one case will show the sort of work

¹ C.H.L., General Letters. J. Spring-Rice, Secretary to the Treasury, to the Commissioners of Customs, July 18th, 1833, forwarded with directions to the Collector and Controller, Liverpool.

² C.O., 384/35. R. Low to R. W. Hay, July 30th, 1833.

³ C.O., 384/32. R. Low to R. W. Hay, Aug. 12th, 1833.

⁴ C.O., 384/32. R. Low to R. W. Hay, Oct. 24th, 1833. Enclosure.

⁵ C.O., 384/32. R. Low to R. W. Hay, June 5th, 1833.

he did and the conditions an emigrant had to face in Liverpool.

At the end of July 1833 there landed from the Irish steam packet Thomas Magee, his wife with five children and a fellow-countryman, Bernard McGarahan. No sooner had they set foot on land than they were beset by a "runner," Patrick Foy, who rushed the party off to his house to lodge, assuring Magee that he would introduce him to an agent who could give him a passage. This agent was O'Neil, who offered to take the family on the *Sylvanus Jenkins* which was to sail in eight days. Magee refused this offer as he could not afford to wait that time and so O'Neil agreed to take Magee and his family for £10, and McGarahan for £2 5s., on the *Eagle* which sailed next day. After being shown the ship by Foy, Magee was satisfied, paid over the ten sovereigns at the office of Byrnes & Co., the brokers, and received a ticket on which O'Neil had originally written "£10 due" and now, without crossing out the first entry, wrote "£10 paid." As he could not read, of this, as well as of the fact that the ticket was really made out for the *Sylvanus Jenkins*, Magee was blissfully ignorant. It was only the next morning, when he asked a man to read the ticket for him, that he discovered the deception and at once rushed off to find O'Neil. The latter was quite unmoved and refused to take him on board the *Eagle* unless he paid the other £10. This was impossible, as he had only £3 and a few shillings left, so he went to the Mayor who referred him to Low.¹ This was such a gross case that Low determined to take counsel's opinion and O'Neil in alarm, hearing of what was happening, tried to get Magee off on another ship. Low stopped this, as the lawyer considered that O'Neil was guilty of actionable, if not of indictable fraud, and arranged that

¹ C.O., 384/32. The informations of Thomas Magee and Bernard McGarahan sworn before the Mayor, Charles Horsfall, Aug. 1st, 1833.

Magee and his family should be lodged at the workhouse in order that his witness might be given at the trial. Amongst all his other business Low found time to visit them to make sure they were well cared for and arranged that clothes were bought for the poor children, who were almost naked.¹

Magee's misadventures were not, however, over. In October when the trial took place he came down to court, but before his case was called he was inveigled by friends of O'Neil to Clegg's public-house, near-by. There between 1 and 2 p.m. a constable on duty saw him the centre of a party of agents who were "treating" him generously and at 3 p.m., when Low's suspicions had been aroused by his absence and orders to search had been issued to all the constables, he was discovered alone in the room, dead drunk and quite incapable of giving evidence.² After all his trouble it seemed that Low had been worsted, but he was a determined man and with incredible speed, somehow or other, before the court closed he had obtained sworn depositions from an agent who had overheard the plot, from the constable who had seen Magee at the public-house, from a lawyer who stated that Magee's evidence was essential, and so the case was postponed till the next day. Magee, after a night spent secure from temptation at the Bridewell, in the morning "felt all that a man could feel on the occasion and gave his evidence in the clearest manner possible," with the result that O'Neil was sentenced to six months' imprisonment and Foy to three.³ The Bench, however, did not make the brokers return the £10 which had been paid, so Low had to engage a passage on another vessel and also to replenish the little stock of

¹ C.O., 384/32. R. Low to R. W. Hay, August 12th and 14th, 1833.

² C.O., 384/32. Depositions of Thomas Yonge, broker, and John Foster, constable, and W. Shuttleworth.

³ C.O., 384/32. R. Low to R. W. Hay, Oct. 30th, 1833.

provisions the family had collected in Ireland three months before. Eventually they sailed in November to join their friends who had been successful in obtaining passages by the *Eagle*.¹

Although Low had made every effort to keep expenses down the costs of this case in board and lodging, lawyers' fees, and passage money amounted to about £127, which sum was paid by the Treasury. In this case his action was supported, but the Colonial Office were alarmed lest any other charges of the same kind should be incurred,² and Low's energetic action was crippled by cautions not to assume "either in word or deed any extraordinary power" in discharging his duties and injunctions "that it would be more prudent and in all probability tend more to the advantage of the service . . . to use mild remonstrances . . . to remedy any objectionable behaviour on the part of the shipowners or agents."³ Knowing only too well by now the unscrupulous and unfeeling scoundrels with whom he had to deal only a strong sense of humour could have helped Low to restrain his anger when told to rely on "mild remonstrance." However, the imprisonment of O'Neil and Foy was a salutary example, resulting in fewer complaints against brokers and their agents than ever before.⁴

Low's work had been appreciated, and from all sides Stanley had received "the most gratifying testimonies of the benefits which had resulted" from his supervision of the 15,000 odd people who had passed through the port. He had "by his exertions succeeded in putting the trade on a more respectable footing than it had ever stood before,"⁵ and as his appointment had been an

¹ C.O., 384/32. R. Low to R. W. Hay, Nov. 26th, 1833.

² C.O., 385/8. R. W. Hay to R. Low, May 22nd, 1834.

³ C.O., 385/8. R. W. Hay to R. Low, April 29th, 1834.

⁴ C.O., 384/30. R. Low to R. W. Hay, April 8th, 1834.

⁵ *Parl. Deb.*, 3rd Series, Vol. XXII, p. 964. Debate on the appointment of emigration agents, April 18th, 1834.

experiment,¹ its success encouraged Stanley to ask Parliament for a supplementary grant of £1,457 15s. in order to establish similar agencies at Dublin, Belfast, Cork, Limerick, Leith, Greenock and Bristol. For once Hume did not criticise the Government's action as he "thought that no money had been voted for the last ten years for so useful a purpose"² and the new agents took up their duties during March, April and May, 1834.³ It is not necessary to enter into the details of their work, for their difficulties and their measures to cope with them were very much the same as Low's, though his task was infinitely the hardest as so many more emigrants sailed from Liverpool. The result of their efforts was most satisfactory, for the very first season in which they were appointed the "interference of the benevolent" at Quebec was less required than for five years previously and there were very few complaints to make of the conduct of shipbrokers and lack of provisions.⁴ Although successful to this extent, whether it was at Liverpool or Cork or Leith, the government agents found that there were two serious handicaps to the success of their work, one the narrow application of the Passenger Act, the other the inadequacy of its provisions. Under the Act of 1828 control was exercised only in the case of ships in the trade to British North America. Now that the numbers leaving the country were so great, alongside these ships there were loading up many others under no regulation whatsoever. Those bound for the United States had to observe the rules laid down by the laws of that country which since 1819⁵ had governed the

¹ C.O., 43/77. R. W. Hay to J. Stewart, April 27th, 1833.

² *Parl. Deb., op. cit.*, p. 965.

³ C.O., 384/35. Communications from Emigration Agents, 1834.

⁴ *P.P.*, 1835, XXXIX, 87, pp. 13 and 5.

⁵ *P.P.*, 1835, XXXIX, 98. Copy of an Act passed March 2nd, 1819, by the Senate and House of Representatives of U.S.A. for regulating passenger ships and vessels.

trade, but since 1830 Wakefield's schemes for the colonisation of Australia had been taken up, the Commissioners of 1831 had done what they could to encourage the emigration of women to this new field, and by 1834 the number of ships for Australia was considerable. These had to make preparation for a voyage much longer than that to North America and in latitudes of great heat, yet there was no law in their case to which the agents could appeal in their efforts to secure satisfactory conditions. As for the law governing the trade of British North America, within ten days of his arrival at Liverpool Low had decided that it was utterly impossible to carry three passengers for every 4 tons "without stowing them like cattle."¹

This was indeed the most serious fault to find in the regulations drawn up in 1828—and well it might be so considering that the figures were the result of a mistake. The crowding thus legalised was made worse by the fact that two children under fourteen, and three under seven, were reckoned as one adult, and as the Customs officers at Liverpool pointed out,² the children consumed as much air, while as to space where the comfort of his fellow passengers is concerned an active child can occupy more than his cubic capacity; besides, no allowance was made for the type of ship—the whole between-decks might be given up to passengers or a considerable space taken up by the cabin accommodation and the quarters of the crew. A committee of the North American Colonial Association,³ and later

¹ C.O., 384/32. R. Low to R. W. Hay, May 26th, 1833.

² C.H.L., Report of Collector and Controller on case of *Brutus*, July 2nd, 1832.

³ C.O., 42/239. Paper submitted by Nat. Gould to Lord Goderich, Feb. 9th, 1832. Figures given are:

Ship of 340 tons has space for passengers 72 feet x 24 feet. Act allows

Low,¹ give elaborate figures to prove that under the Act a floor space of roughly 5 square feet was allowed for each person and his baggage. That such crowding was allowed by law seems incredible—and yet it has been shown there were brokers ready to send to sea more than the legal number. The other serious defect, which Buchanan had exposed, was the provision for bringing the master to justice ; although it was often the brokers who were guilty of offences against the law,² it was the master who was held responsible and he had to enter into bond for £1,000 that the vessel was seaworthy and that the regulations would be carried out, but as bond was given in the United Kingdom and the evidence against him was obtained in America the bond was rarely, if ever, put in suit. On the other hand, as a summary conviction in America was not allowed under the law it was extremely difficult to bring him to justice for a misdemeanour there before he sailed away again. There were as well many minor complaints,³ as for instance, that the services of a surgeon were not required, that there was no penalty for delay in sailing, and that there was no clear rule when cargo was carried as well as passengers. These complaints had passed unheeded till Goderich was replaced by Stanley, who definitely took in hand the amendment of the law. Soon after Low's first criticism reached the office he was asked for a full report on the matter ; he

225 adults —15 for crew = 240. Usually average of passengers probably as below :

165 adults	= 165 adults.
90 children between 7 and 14	= 45 "
90 " under 7	= 30 "
<hr/>	<hr/>
345 persons.	240 adults.

¹ C.O., 384/32. R. Low to E. G. Stanley, Dec. 19th, 1833.

² C.O., 188/41. Sir A. Campbell to R. W. Hay, Oct. 26th, 1831.

³ C.O., 384/32. R. Low to R. W. Hay, May 25th, 1833. C.O., 384/35. Lieut. Friend, Cork, to R. W. Hay, April 8th, 1834. C.O., 384/35. Lieut. Henry, Bristol, to R. W. Hay, March 13th, 1834.

replied at length ¹ and was asked again by Stanley himself for further details; his draft was sent to J. O. Pinnoch, an official who in 1834 had made arrangements for the emigration of women from Dublin and had other experience of the movement, for his criticism; ² the matter was broached to the Treasury ³ and Stanley invited the further comment of the North American Colonial Association. ⁴ All this activity shows the anxious desire of the Colonial Secretary to have expert opinion from all quarters in order to make the new law, not a temporary and half-hearted expedient as was the Act of 1828, but a really thorough and satisfactory measure. During 1834, however, little progress was made owing to governmental changes and it was not till 1835 that the matter came before Parliament.

The new Bill had a very distinguished sponsor, W. E. Gladstone, an earnest young man of twenty-six who had just been admitted to his first public office as Under-Secretary for the Colonies in Peel's short-lived ministry of 1834-5. The first public measure for which he was responsible seems to have been this Passenger Act. He attacked the knotty and intricate problem with all the thoroughness which was to prove characteristic of his later work and there is amongst the Colonial Office papers a draft of the Bill in his own handwriting, with careful notes. ⁵ There was a long and detailed correspondence on the subject to be mastered, deputations from the Shipowners Association to be received, ⁶ last minute representations from the North American Colonial Association to be considered. ⁷ But James Stephen,

¹ C.O., 384/32. R. Low to R. W. Hay, June 22nd, 1833.

² C.O., 384/32. Memo. by J. O. Pinnoch, Jan. 7th, 1834.

³ *Ib.*

⁴ C.O., 43/78, p. 362. R. W. Hay to A. Gillespie, March 19th, 1834.

⁵ C.O., 384/35. Draft of Passenger Bill, 1834. No date given.

⁶ C.O., 43/80. W. E. Gladstone to W. Oriatt, March 19th, 1835.

⁷ C.O., 43/80. W. E. Gladstone to A. Gillespie, March 17th, 1835.

who had drawn the Act of 1828, when asked for his opinion on certain clauses, replied that no Act of Parliament on such a subject would be satisfactory unless it originated with a Committee of the House or with persons thoroughly experienced in the trade, and, though willing to be of assistance, he could form no opinion worth recording on the subject.¹ R. W. Hay proved himself more helpful.² He assured Alex. Baring, the President of the Board of Trade, afterwards Lord Ashburton, who was Gladstone's colleague in preparing the Bill, that he was ready to discuss the matter with him at any time as he feared "our poor emigrants are prodigious sufferers for the want of some wholesome regulations to protect them against the impositions to which they are exposed from shipowners and others."³

From his notes on the Bill it appears that amongst the clauses which caused Gladstone most thought was first the one dealing with numbers in proportion to tonnage. Buchanan suggested two persons to 3 tons, Low and the Shipowners Society two to 5 tons. Eventually he solved the difficulty by compromising with two to 5 tons. He was also concerned as to how a survey of ships to ascertain if they were seaworthy could be carried out, and whether the new law should apply to the United States or not,⁴ for although the law of that country restricted numbers to two to 5 tons, it was virtually useless as there was no regulation as to the space that must be left free of cargo for the accommodation of the passengers.⁵ These last two points he brought to the notice of Parliament for discussion when on March 19th, 1835, he moved for leave to bring in his Bill.⁶ There was no

¹ C.O., 384/35. Memo. by J. Stephen, March 16th, 1833.

² C.O., 384/35. A. C. Buchanan to R. W. Hay, September 23rd, 1834. Note on back by James Stephen.

³ C.O., 43/80. R. W. Hay to Alex. Baring, Feb. 12th, 1835.

⁴ C.O., 384/35. Draft of Passenger Bill, 1834. No date given.

⁵ C.O., 384/32. R. Low to R. W. Hay, June 29th and Oct. 10th, 1833.

⁶ *Parl. Deb.*, Vol. XXVI, 3rd Series, March 19th, 1835, p. 1235a.

opposition to the principle, but the Bill had a difficult passage and did not finally become law till August 31st after it had been three times printed with different amendments.¹ These were all on minor points, and though the discussion on them must have occupied the honourable members' time and show the intricacy of the points to be considered, it is unnecessary to go into details. What is of importance is the final settlement.²

In the first place, the law was to apply to ships sailing to all the British possessions, though the trade to the United States was left under the control of the laws of that country. In the second place, an attempt was made to give summary redress by enacting that proceedings for the recovery of penalties were to be before justices of the peace, or before the same courts and in the same manner as the laws concerning smuggling, Customs, trade or navigation, except that the consent of the Commissioners of Customs need not first be obtained. Thirdly, the proportion of passengers was to be three to every 5 tons. Thus the three worst defects in the law of 1828 were rectified. In addition there were less important regulations forbidding the export of spirits, increasing the allowance of breadstuff, and except on vessels to North America, insisting that if there were more than 100 passengers a surgeon and medicine chest should be carried. There were also clauses never before included in a Passenger Act which attempted to end other abuses of which the agents complained. If the ship was detained after the appointed day of sailing the master was to victual the passengers, or pay 1s. per day to those feeding themselves; he was to land them at the port contracted and keep them on board, if they

¹ *P.P.*, 1835, III, 56, 234, 383. Bills of March 19th, May 22nd, and July 13th.

² 5 & 6 Will. IV, c. 53.

wished, for forty-eight hours after arrival and not to turn them out "like the beasts of the field into a strange place without lodging or shelter";¹ a table of standard prices of food was to be exhibited and no higher price was to be charged on board, and the officers of Customs as well as examining the vessels to see that the law was obeyed had also the power to order a survey of the ship if they doubted her seaworthiness.

The new law of 1835 was indeed a more thorough and comprehensive measure than the law of 1828—and for three reasons. In the first place Gladstone could triumphantly prove that the gloomy prophecies made in 1828 had not been fulfilled. Hume and his supporters had argued that any control would seriously limit emigration, but Gladstone was now able to open his speech by showing that, instead of decreasing, the number of emigrants had steadily increased and in 1831 as many as 51,000 had left the country. As well during the intervening seven years the trade had been watched more closely than ever before and valuable administrative experience gained; Gladstone could turn to the agents of the Colonial Office, and to permanent officials like Hay, for the information he needed in order to provide more wisely in the future for the well-being of the emigrants. He could also dare to go much further than was possible seven years earlier. In the interval, short as it was, almost a revolution had occurred in public opinion. Parliamentary Reform in 1832 had led on to the other sweeping measures of the great reform era and a decisive victory had been won by the humanitarians in 1833 when the first really important step was taken to secure more humane conditions in the factories. The principle of regulation was no longer to be attacked and the difference in the whole tone of the debate in 1835 is remarkable.

After Gladstone's opening speech with its personal

¹ *Parl. Deb.*, Vol. XXVI, 3rd Series, March 19th, 1835, p. 1236a.

reference, Hume felt obliged to reply and acknowledged he had opposed the Bill of 1828 because "he believed that all minute legislative interference on such subjects was vicious as well as unnecessary,"¹ but beyond this he made no reference to the economic doctrine of *laissez-faire* and indeed asserted that Government had duties towards the emigrants. They should see that the vessels were trustworthy, not coffin ships, that adequate provisions were on board, and that emigrants were protected from imposition by fair contracts. This was indeed a change of front since 1828, when "he would have no interference whatever."² Another convert seems to have been Alexander Baring, President of the Board of Trade, who had assisted in preparing the Bill. In Wilmot Horton's absence he had been acting Chairman of the Emigration Committee of 1827, the day when Fitzhugh's final evidence on the Passenger Bill was heard and when the recommendation for the repeal of the law must have been made³ and in the debate in 1835 he stated that he "thought that interference in such matters was not desirable except, when from peculiar circumstances, it became indispensable." He had been influenced, however, by sympathy for the emigrants' sufferings to consider their helplessness occasioned such an indispensable need, and so "he thought it the duty of the House to interfere"⁴ and gave the Bill his full support. The only sign of opposition came from one of Daniel O'Connell's followers, who objected not to the Bill, but to Baring's disparaging remarks about the Irish.⁵

The speeches in the debate on the Passenger Act of 1835 indeed show clearly that administrative efficiency was the chief concern. No longer was it a generally

¹ *Parl. Deb.*, Vol. XXVI, 3rd Series, March 19th, 1835, p. 1237b.

² *Ib.* Vol. XVIII, New Series, March 18th, 1828, p. 1214a.

³ *P.P.*, 1826-27, VI, 237, p. 189.

⁴ *Parl. Deb.*, Vol. XXVI, 3rd Series, March 19th, pp. 1237 and 1238.

⁵ *Ib.*, p. 1238a. Mr. Ruthven.

accepted axiom that all State regulation was a mischievous and unwarranted interference and the opposite principle passed unchallenged. This was boldly stated by Lord Sandon, who declared "it was only following a just principle of legislation when Parliament interposed for the protection of the weak and ignorant."¹

The law of 1835 seemed to be satisfactory till, with extraordinary ingenuity, unscrupulous agents, owners and masters, eager to enrich themselves, found weak places in its construction and evolved new methods of evasion. Low was so disgusted that his suggestions had not been all accepted that he thought it "very little better than the Act it is intended to repeal,"² especially because he considered the proportion to tonnage still too high. He severely criticised the 20th clause which exempted vessels which carried one passenger, or less, for every 5 tons burthen. On a vessel of 400 tons, 80 passengers could be carried and in no way could they claim the protection of the law.³ Besides, this clause resulted in another great difficulty, for the Customs officials, after enquiries to the Board,⁴ were instructed that there was no necessity to certify the lists of passengers in such cases,⁵ and so double Capitation Tax was charged in America. This caused so many protests that finally the Board reversed their order,⁶ although it had been in accordance with the clause of the Act. As well they were requested by the Colonial Office to introduce into a very important Act of 1838, amending the laws relating to the Customs,⁷

¹ *Parl. Deb.*, Vol. XXVI, 3rd series, March 16th, p. 1238b. Lord Sandon.

² C.O., 384/38. R. Low to R. W. Hay, April 25th, 1835.

³ C.O., 384/38. R. Low to R. W. Hay, June 6th, 1835.

⁴ C.H.L., Collector to Board, Sept. 30th, 1836. See also C.O., 384/41. E. Miller to J. Stephen, June 30th, 1836.

⁵ C.H.L., Board to Collector, Oct. 5th, 1836, and also C.H., Index to Minutes of the Board of Customs, 1792-1843, Sept. 24th, 1836.

⁶ C.H.L., Board to Collector, May 15th, 1837, and also C.H., Index to Minutes of the Board of Customs, May, 1837.

⁷ 1 & 2 Vict. c. 113.

a clause to meet another weakness in the Colonial Office measure of 1835, extending the provisions of the Passenger Act to all foreign vessels carrying passengers from the United Kingdom,¹ which vessels legal opinion,² in reply to a query from Belfast, had not considered covered by the original measure. Neither did it apply to ships sailing between British possessions and, as there was frequent intercourse between the West Indian Islands and often excessive crowding, in 1840 the law, with certain modifications, was extended to that trade also.³

Far more difficult to deal with were the subtle evasions and scheming expedients of those who were determined in spite of the law to defraud the emigrants. Clause 20 afforded them a fine opportunity; if a broker could charter a large vessel, well loaded with cargo, and if he only shipped the small proportion of one to every 5 tons, he could treat the passengers as he liked, and Low found one of his old opponents obdurate when he remonstrated with him, for he was absolved by this clause.⁴ The regulation that 1s. per day must be paid to passengers if the vessel did not sail on the appointed day sounded well on paper, but in practice the money was very difficult to recover; the brokers by ingenuously drawing the ticket, by leaving out the date on which the vessel was to sail for instance,⁵ put themselves outside the reach of the law, while it gave no satisfaction against those agents who took a poor man's last pound in return for a ticket on a ship which did not exist.⁶ By quibbling over the tonnage of the vessels, when an alteration was made

¹ 1 & 2 Vict. c. 113, Clause XXVI.

² C.O., 384/41. Attorney-General and Solicitor-General to Glenelg, May 30th, 1836.

³ 3 & 4 Vict. c. 21.

⁴ C.O., 384/38. R. Low to R. W. Hay, July 23rd, 1835.

⁵ C.O., 384/41. R. Low to Sir George Grey, April 2nd, 1836.

⁶ C.O., 384/41. Memorial of Patrick Lyne to Charles Friend, Government Emigration Agent, Cork, 1836.

in the method of measurement,¹ by laying the second deck, on which the passengers lived, below the beams of the ship instead of on them, to secure the requisite height between-decks on vessels that really were not suitable, and in many other ways they evolved successful schemes for making as high a profit as they could.

The penalties under the Act were not sufficient to deter the unscrupulous even if they did come within its reach. For any infringement of the regulations the master, not the broker or owner, was liable only to a fine of not less than £5, nor more than £20. To take only one of several cases,² on the *Lord Cochrane* of Tralee there was an excess of over 50 passengers and the Customs officers at Tralee,³ the emigrants themselves and John Fife, who was still Tide-Surveyor at Quebec, were of the opinion "that the glaring violation of the law was committed knowingly and wilfully by the owners"⁴ as they knew that the highest fine they would be called upon to pay would be £20. A. C. Buchanan, Junior, who had taken his uncle's place as Chief Agent for Emigrants at Quebec, pointed out that if the usual rate for passengers from Ireland was allowed at 40s. each, there would be a profit for the owners of £100 "after paying the fine, which as it now stands is, in fact, offering a premium" for the infringement of the law.⁵ It does indeed seem extraordinary that this ridiculously small penalty should have been fixed by the framers of the Act. There seems to be no reason for this mistake as there was for the other affecting penalties. This was in the clause which

¹ C.O., 384/62. J. E. Hodder, Emigration Agent, Dublin, to J. Stephen, May 6th, 1840.

² C.H. Papers referring to the Passenger Acts, Quebec, 1828-40. See as examples the cases of the *Argo* and the *Grace*.

³ *Ib.* The Collr. and Contr., Tralee, to the Collr. and Contr., Limerick, July 7th, 1841.

⁴ *Ib.* J. Fife to the Collector, Quebec, June 10th, 1841.

⁵ *P.P.*, 1842, XXXI, 373, p. 6. A. C. Buchanan's General Report for 1841.

attempted to give summary redress by providing that proceedings for the infringement of the Act should be prosecuted before the same courts and justices of the peace as the Acts concerning smuggling, Customs, trade and navigation. Those responsible for the Act did not realise that in Canada the local justices had no jurisdiction under these Acts and that all proceedings had therefore to come before the Court of Vice-Admiralty through the Attorney-General.¹ As the Court did not allow costs the Collector and Controller did not institute proceedings in six cases between July 18th and 29th, 1836, when there was an excess of 10, 13, 25, 11, 15 and 7 passengers respectively as they considered the prosecutions made earlier in the year a sufficient example. They were, however, instructed by the Commissioners to bring every case before the Court.² This failure to act on the part of the Customs officials at Quebec shows that legal procedure was still a tedious and costly business in Canada and there was no summary conviction of offenders.

In Ireland there was no wish even amongst the emigrants that the law should be obeyed; coming from dirty, crowded, poverty-stricken cabins their only desire was to get to America as cheaply as possible and, through very perversity perhaps, may have enjoyed pitting their wits "agin the Government" in the attempt to get a passage free of cost. Consequently during these years many an attempt was made to smuggle on board as a stowaway, or by lying freely as to their ages, to pass off children as younger than they were.

It must have indeed been difficult to thwart the in-

¹ *P.P.*, 1841, XV, 298, p. 96. A. C. Buchanan's suggested amendments to the Passenger Act, 1840.

² *C.H.*, *op. cit.* Collectr. and Contr., Quebec, to the Commissioners of Customs, July 30th, 1836, and note thereon by Henry Richmond, Commissioner, Sept. 29th, 1836.

genuity of the quick-witted Irish, determined to evade the law. In June 1836, the master of the *Argo* from Sligo, an "honest, humane and trustworthy man,"¹ discovered to his consternation before reaching the American coast, when he checked his list of passengers, duly countersigned by the Customs officers, that he had 27 more passengers on board than by law allowed. This was discovered by John Fife, and as a careful inspection had been made by the government agent at Sligo and the Customs officer, the master could only suggest they had smuggled themselves on board,² in the opinion of the collector at Sligo, very easy to do on account of "the number of the friends of the passengers that crowd and confuse the vessel on her departure."³

In time the masters and officers learnt to take precautions. In 1840 when the brig *Lively* left Cork the tide-surveyor was satisfied that after he had mustered the passengers and checked the list there was only the legal number on board;⁴ the captain had discovered one stowaway in the fore-castle and sent him ashore, and that night when owing to a flood-tide and a high wind he was forced to anchor inside the heads of Cork he set a strict watch lest any should come aboard. He even paid the pilot's men 2s. each to assist in keeping watch as he felt he could not trust his own crew.⁵ When the *Warrior* left Westport in 1842 the Customs officer took with him on board four constables of police and a

¹ *Ib.* Collectr. and Contr., Quebec, to Commissioners of Customs, June 18th, 1836.

² *Ib.* William Greggs, Master of the *Argo*, to the Collectr. and Contr., Quebec, June 17th, 1836.

³ *Ib.* The Collectr. and Contr., Sligo, to the Commissioners of Customs, August 8th, 1836.

⁴ *Ib.* N. Seymour, Tide-Surveyor, Cork, to Collectr. and Contr., Cork, August 26th, 1840.

⁵ *Ib.* William McDonough, Master of the *Lively*, to Collectr., Quebec, June 27th, 1840.

strong party of coastguard men who formed a barrier across the deck while he checked the list, and only after examination did they allow each individual through. Those not on the list were kept forward under guard till a thorough search was made below and were then put ashore. There followed a second examination, and each person as his name was called passed down below by the steerage which was the only hatchway not carefully closed.¹ To make certain that no one got on board after the muster, some of the coastguards were left on the ship till the vessel sailed and the officers and crew, some of them armed, kept sentry on the deck.² Yet in spite of these precautions at Quebec there was discovered an excess of nine passengers on both the vessels. After lengthy enquiries, however, the Commissioners were satisfied that in neither case was the master or officials to blame and so the fine of £20 deposited with the collector at Quebec was returned.³

As well as concealing themselves on board with the connivance of the crew or of the other passengers, who sometimes took the supply of food for the stowaway on board with their own, the emigrants defeated the law in yet another way. Two children under 14 and three under 7 were reckoned as one adult and the cost for their passage charged accordingly by the brokers. It was therefore no uncommon occurrence for parents to state falsely the ages of their children and the government agents and Customs officers had to develop a seventh sense for judging children's ages. As the tide-surveyor at Sligo complained, "I could not take on me, nor do

¹ C.H., *op. cit.*, Charles Kingston, Contr., Westport, to the Collectr., Westport. Report on letter of Collr., Quebec, to Commissioners, London, July 11th, 1842.

² *Ib.* Sworn statement before the magistrates of John Reid, ship-agent, and Thomas Robertson, Master of the *Warrior*, to the Collr., Quebec, July 7th, 1842.

³ *Ib.* Notes of legal advisers to the Board of Customs on the preceding correspondence.

I think anyone could, to decide within two or three years of the age of any young person as boys and girls will appear as old at 16 as others will at 17 or 18." His way out of the difficulty was to let his superior officer decide, so apparently he invaded the office of the collector with batches of ragged children on whom that dignitary had to pass judgment.¹ The collector and controller and the emigration agent at Liverpool also felt the same difficulty in dealing with "parties so regardless of the truth . . . as emigrants"² when they had to answer for vessels from Liverpool on which had been discovered an excess of passengers. Indeed the emigrants were not all helpless nor always the injured party. Though it is the opinion of one of the most culpable of Liverpool agents, Low's chief opponent, and therefore exaggerated, there is probably at least some truth in the view that amongst the emigrants were "the off-scourings of the human race," men capable of any deceit.³

As even the amended Passenger Act of 1835 was by no means adequate and as masters, owners and agents and even the emigrants themselves were trying every stratagem to evade its provisions, it is perhaps not to be wondered at that a critic of conditions on the passage should have been horrified, nor is it remarkable that, without sifting the evidence, the whole blame should have been laid at the doors of the British government. This is certainly what happened in 1839 when Lord Durham reported on the affairs of British North America.⁴ In that great report itself and in Appendix B,⁵ both Durham and Charles Buller, who had been appointed to enquire

¹ *Ib.* Tide-Surveyor, Sligo. Report on case of *Marquis of Normandy*, Oct. 3rd, 1840.

² *Ib.* Lieut. Henry to Collr. and Contr., Liverpool, on the case of the *Grace*, Aug. 4th, 1841.

³ C.O., 384/43. Pamphlet written by Edward Walkinshaw, Dec., 1837.

⁴ *P.P.*, 1839, XVII, 3.

⁵ *Ib.* Report to His Excellency the Governor-General from Charles Buller on Public Lands and Emigration.

into the question of waste lands and settlement, ruthlessly exposed the worst abuses of the emigrant traffic and criticised in the strongest terms the policy of the government in dealing with emigration to British North America. Although convinced by Wakefield and his supporters that "systematic colonisation," including the selection of emigrants and the superintendence of their passage, was necessary for Australia, the Colonial Office considered that it would be wise to leave emigration to the British colonies in America as free as it always had been. This view was explained by T. F. Elliot, who in 1837 had been appointed Agent-General for Emigration, in a report issued early in 1838,¹ now strongly denounced by Durham and Buller. Fully convinced themselves of the benefits of strict control and systematic regulation by the Imperial Government, they saw no reason why a difference should be made; both the evils in the administration of Crown lands in America and the abuses to which emigrants were exposed on the passage seemed to call for vigorous action and to show a neglect of duty on the part of the Colonial Office.

Certainly the evidence which was heard by Charles Buller on this second point revealed conditions revolting to any man of humane feeling, and especially to one who had no knowledge of a state of affairs even worse in previous years. The witnesses were A. C. Buchanan, Junior, who was cursorily examined as to the duties of his office; Joseph Skey, the Deputy Inspector-General of Hospitals and President of the Quebec Emigrant Society; Henry Jessop, the Collector of Customs at Quebec since 1833; Joseph Morin, the Inspecting Physician at the port of Quebec, and Charles Poole, Inspecting Physician at Grosse Isle. They all gave the fullest details of their experience,² quoted at length by Lord Durham in his report, from which it is possible to gather a vivid impres-

¹ *P.P.*, 1838, XL, 388.

² *P.P.*, 1839, XVII, 3, pp. 80-8.

sion of the worst abuses. Dr. Morin considered that "with a very few exceptions the state of the ships was quite abominable; so much so, that the harbour-master's boatmen had no difficulty, at the distance of a gun-shot, either when the wind was favourable or in a dead calm, in distinguishing by the odour alone a crowded emigrant ship." He had known 30 or 40 deaths from typhus on board a ship with 500 to 600 passengers, and 400 patients in the Emigrant Hospital, while those who were not sick, for six weeks at a time crowded the wharfs and shores of the river not knowing where to go next, or without the means to pay their fare. It must be noted, however, that his evidence only referred to the years 1826-32. Dr. Poole complained of the shortness of provisions, dirt and bad ventilation, of the extortions of the masters, of the false decks below the beams which pressed the passengers into the narrow part of the ship and brought them nearly in contact with the damp ballast, and of the incompetence of the surgeons. He has one story of a ship from Ireland on which only slight complaints were reported and these certified "cured"; on inspection he found 40 cases of typhus, of which nine were too ill to leave their berths, while the others were propped against the bulwarks with pieces of bread and hot potatoes in their hands, to pass as well in order that the ship might not be detained by quarantine. He also complained that the agents in England did not examine the provisions carefully enough, and he reported in detail the case of two ships, the *Ceres* and the *Kingston*, which arrived one without any water and the other with enough for half a day, while on the *Ceres* the temporary berths had come to pieces and caused the death of two children. The lack of water he attributed to the government agent at Liverpool for "the captain had called his attention to the water casks" as they were old with pine heads, and "requested that they might

be filled before embarkation to prove their quality." This was refused by the agent and the casks were taken on board without proof—"with the result that the *Ceres* lost 800 gallons in 3 days and the *Kingston* nearly as much."

To Durham this seemed proof of the general indifference of the home authorities, and so without waiting for his report he wrote a stinging despatch¹ at once to Glenelg, then Colonial Secretary, in which he enclosed a copy of Dr. Poole's evidence and insisted "that a new law and a very different kind of administration from any that has yet taken place are absolutely necessary." In the Report itself he states that the evidence heard proved that without the colonial measures of a quarantine station and the Capitation Tax "the amended Passenger Act would have afforded no efficient remedy of the evils";² that the office of emigration agent at Quebec is "next to useless," as the "agent has no powers, nor scarcely any duties to perform," and that "all that is done for the advantage of the poor emigrant is performed by the Quebec and Montreal emigrant societies."³ Buller in his report to Durham also joins in this condemnation of the policy of the Colonial Office. He considers the measures adopted "partial and incomplete . . . deplorably defective," and that "this admitted duty of government is still to a considerable extent unperformed . . . faulty in principle as well as insufficient in detail." As far as administrative work went in his opinion the whole extent of it was the appointment of emigration agents at a few English ports, and one in Canada whose duty was "to observe rather than to regulate."⁴ Such criticism coming from such a high quarter is a serious indictment and deserves the fullest consideration. If justified the

¹ C.O., 42/284. Durham to Glenelg, Oct. 20th, 1838.

² For text of Report, see also Sir C. Lucas, *Lord Durham's Report on the Affairs of British North America*, 1912, Vol. II, p. 247.

³ *Ib.*, p. 253.

⁴ *Ib.*, Vol. III, pp. 121-2.

humanitarian effort in England had been a complete failure owing to the negligence of government.

The criticism of the office of the emigration agent at Quebec as "next to useless" at once demands investigation. The statement is based on the evidence given by A. C. Buchanan, Junior—but he was only asked about the connection of his office with the home authorities and the Governor-General.¹ In reply he had to say that beyond his salary and an allowance for expenses he had no funds to draw on and could afford no help to emigrants in this way. This was a special source of satisfaction to his predecessor who considered, most probably with justice, that the pecuniary assistance given by the emigration societies was only an encouragement to the lazy and thriftless. On this, however, as is shown by his praise of the societies, Lord Durham thought differently. When asked what instructions had been received from the Colonial Office Buchanan had to reply that he had none, as he followed the routine established by his predecessor; he could not have known that it was hardly the fault of the Colonial Office that none had been given in the first place. Huskisson had left this duty to Lord Dalhousie, who was better fitted to decide on detailed duties; he was on the point of giving up his office; his successor was inexperienced and by the time he was competent to deal with the matter the energetic agent had in practice worked out his duties for himself, the chief of which was to furnish correct information concerning settlement and employment. But of the practical work which had been accomplished since 1828, Buchanan was never asked.

The partial nature of the information on which this first criticism is based naturally provokes a detailed examination of the evidence of the other witnesses not quoted by Lord Durham in his report. In the first place it seems as if the questions were framed to elicit informa-

¹ *P.P.*, 1839, XVII, 3, p. 80.

tion to prove the existing system defective. When Dr. Skey spoke of the sickness on the emigrant vessels, he was asked, "The disease originated of course on board ship?" "And was occasioned by bad management?"¹ which can hardly be considered anything but leading questions. Secondly, there are important suppressions. All the witnesses, except Buchanan, whose opinion was not required, agreed that of late years there had been considerable improvement. Dr. Morin, when asked, "To what do you attribute this improvement?" replied, "To the Passenger Act, the fund for the benefit of emigrants . . . and Grosse Isle";² it is noteworthy that he puts the Passenger Act first, and that Lord Durham, while dilating on the benefits conferred by the colonial measures, has nothing but condemnation for the Imperial Government. Dr. Skey also attributed the improvement to the Passenger Act, and Jessop and Morin were of the opinion that with certain improvements, as for instance concerning penalties, and if rigidly enforced, it was a satisfactory measure. From these facts it seems that Lord Durham did not do the British Government justice. He was anxious to prove that the policy of "systematic colonisation" was the best to follow; to do so he wished to make the case against the old policy as black as possible. After quoting the adverse criticism of the witnesses to this end, he is able to work up to the climax of his report on the subject. "I object along with them," he writes, "to emigration as it now takes place—without forethought, preparation, method or system of any kind."³

Meanwhile, agitation had been caused at the Colonial Office by his first despatch with the enclosure of Dr. Poole's evidence and a search was made through the correspondence, which resulted in the discovery that

¹ P.P., 1839, xvii, 3, p. 82.

² *Ib.*, p. 86. Grosse Isle was a quarantine station for the detention of emigrants.

³ Lucas, *op. cit.*, p. 259.

the case of the *Ceres* and the *Kingston* had been reported by Buchanan in 1836¹ and that Low had already made reply. He had reported that he had examined both vessels thoroughly, had rejected certain casks as unfit, had insisted that new bottom boards were put into berths that needed repair, and was convinced that the terms of the Act were observed. The accident was due to the captain not seeing to the ordinary repairs which are unavoidable owing to the working of a ship. He was indeed very much disturbed by such charges, which might have proved fatal to his "character as an officer and a gentleman in the discharge of a great public duty."² At the time Lord Glenelg was perfectly satisfied, as he was on again investigating the circumstances in answer to Lord Durham's despatch.³ Incidentally, Poole's information was not very accurate, as the real name of the vessel was the *Celia*, not the *Ceres*, and the Customs papers show that the number on board the *Kingston* was 283, not "340 and more" as he states.⁴ The tale of the master which he reports is also a palpable falsehood. It is ridiculous to suppose that the agent would forbid, or have power to prevent, an examination of the casks.

Meanwhile Elliot had taken up the cudgels in defence. Lord Durham had written that "all the old evils of filth, inadequate accommodation, inferior and insufficient food, and a scanty supply of unwholesome water . . . which the appointment of the agents and the alteration of the Passenger Act were intended to remedy . . . exist in full force, even up to the present moment."⁵ Elliot replied that he was conscious there were defects in the

¹ P.P., 1837, XLII, 132, p. 13. A. C. Buchanan's Report for 1836.

² C.O., 384/41. R. Low to J. Stephen, Sept. 7th, 1836.

³ C.O., 42/284. Glenelg to Sir J. Colborne, Nov. 30th, 1838.

⁴ C.H., *op. cit.* Return of vessels entered at the port of Quebec between July 18th and 29th, 1836, with more passengers than allowed by 5 & 6 Will. IV, c. 53. Enclosed in Collr. and Contr., Quebec, to Commissioners of Customs, July 30th, 1836.

⁵ C.O., 42/284. Durham to Glenelg, Oct. 20th, 1838.

Passenger Act, concerning which he was collecting information for a future amendment, but he was convinced there was no failure in administrative effort. In answer to the three definite points brought forward he replied that the accumulation of filth depended on the habits of the emigrants and the amount of authority which the masters exerted over them on the voyage, and most certainly not on the exertions of the agents at the port; that the improvement of the accommodation was outside their legal powers as the law did not forbid the laying of the deck below the beams; that the charge concerning provisions and water was so general that it was difficult to answer, but he was convinced from letters from municipal authorities and other papers that the agents were zealous and efficient. It was some satisfaction to him to find that the only definite cases on which Lord Durham based his accusation were those of the *Celia* and the *Kingston*, which had already been answered, and the only ports mentioned were those of Ipswich, Lyme and Yarmouth, at none of which was there an emigration agent.¹ In answer to other criticism Elliot pointed out that no surgeon was required on vessels to North America because of the extra cost entailed and that every possible care was taken in checking the lists.² Although the cases of the *Argo* and the *Warrior*, already referred to, occurred later, they illustrate the difficulties the agents and Customs officials had to face in carrying out this duty. All the specific charges are here refuted and Elliot further points out the root difficulties of the whole problem. In the first place the emigrants were free to make their own arrangements, and it was impossible for the agents to select suitable ships and trustworthy masters, as Poole suggested, or to interfere in any other arbitrary fashion; secondly, public funds were not granted to provide ideal

¹ C.O., 384/52. T. F. Elliot to J. Stephen, Jan. 5th, 1839.

² C.O., 384/52. T. F. Elliot to J. Stephen, Apr. 20th, 1839.

accommodation on the voyage to America so the question of expense was vital; and thirdly, till such funds were granted, certain evils would continue "inseparable from the independent and unassisted emigration of persons in indigent circumstances, with probably a deficient supply of clothing and a want of cleanly habits."¹

This was the answer of the Colonial Office to the charges preferred against them and their servants, but it is necessary to investigate further, and from other sources, the charge of negligence and inefficiency. It has already been stated that Buchanan considered the appointment of the emigration agents had resulted in improved conditions, and proof of their work done in spite of difficulty during the preceding years lies amongst the Colonial Office papers. In 1836 there is the record of first an agent brought to justice by Low and then a broker;² there is a lithographed copy of minute regulations suggested for masters to observe on the voyage;³ and—best proof of the importance of his work—there is evidence of several attacks made against him by agents and brokers furious at his interference.⁴ Up to the end of 1839 he had wrested from them and returned to those they defrauded over £1,034—no mean achievement.⁵ The Customs officers also bear witness to his work; Dr. Poole's evidence was referred to the department for comment by Elliot and the answer from the collector and controller is recorded at Liverpool. The charges were too vague to answer, but they were assured that Low was "active, vigilant and careful in the execution of his duties."⁶ Before the year was out, after attempting to supervise the 31,578 emigrants who passed through

¹ C.O., 384/52. T. F. Elliot to J. Stephen, Jan. 5th, 1839.

² C.O., 384/41. R. Low to J. Stephen, April 14th and 16th, 1836.

³ C.O., 384/41. R. Low to J. Stephen, Sept. 7th, 1836.

⁴ C.O., 384/43. Pamphlet written by E. Walkinshaw, Dec., 1837.

⁵ C.O., 384/62. A general return from May 7th, 1833—Dec. 31st, 1839.

⁶ C.H.L. Collr. and Contr., Liverpool, to Commissioners of Customs, Jan. 30th, 1839.

the port in 1839 he had died a martyr to exacting duty.¹ There is not so much evidence of the work of the other agents, and it certainly was not as heavy as Low's, but it seems to have gone on steadily. The most important testimony as to the value of the Government's measures comes from another source, however. It comes from the man best fitted to judge of conditions on the Atlantic passage—John Fife, the tide-surveyor at Quebec, whose "invidious employment" and "harassing duty" it still was to muster the passengers of every vessel which reached Quebec. In a letter to Jessop, his superior officer, he says, "I feel convinced that was there not a strict check on emigrant vessels those engaged would relax into their former abuse which is recorded with the awful consequences which attended the same—disease, death and misery." Having held his post since 1823 he was able to look back to former times when conditions were infinitely worse, and the change for the better was due to the stricter measures enforced by Government.²

It remains to trace the steps taken by the Colonial Office after the severe criticism to which their policy had been subjected. The question of emigration was becoming year by year more important, and it was found that the Agent-General with his separate office and staff were not able to cope with all the work it entailed,³ while his duties overlapped as regards Australia with those of the Australian Commission, who were not a very efficient body, as only one of the nine members was a paid and

¹ C.O., 384/62. R. Low to James Clarke, Recorder of Liverpool, 1840 (no date given), and James Clarke to S. M. Philipps of the Home Office.

² C.H., *op. cit.* J. Fife to H. Jessop, July 21st, 1840, amongst papers dealing with the *Catherine*.

³ P.P., 1837-8, XXI, 680. *Report and Minutes of Evidence before the Select Committee of the House of Lords on the State of the Islands of New Zealand*—for evidence of Elliot concerning the duties of his office and the emigration agents.

permanent worker. One of the chief recommendations of the Emigration Committee of 1826-7 had been that a special Board should be established to manage the wide expanse of Crown lands in the Colonies and to control emigration. This important step was taken in 1840, when Lord John Russell was Colonial Secretary, probably as a result of the vigorous representations of Lord Durham. A Board of Colonial Land and Emigration Commissioners was established which was to continue its valuable work right on to 1878. In the instructions issued by Lord John Russell to the first Commissioners—T. F. Elliot, Robert Torrens and Edward Ernest Villiers—their duties are defined as follows: first, the collection and diffusion of accurate statistical knowledge; second, the sale in England of waste land in the Colonies; third, the application of the proceeds of such sales towards the removal of emigrants, and, fourth, the rendering of periodical accounts of the administration of the trust. As regards emigration to British North America Lord John Russell supports Elliot's view that it must be "entirely voluntary and subject to no other influence . . . than from the diffusion of any information which it may appear expedient to publish and the enforcement of any general rules which an Act of Parliament may supply for the regulation of passenger ships." To this end it would be the duty of the Commissioners to supervise the agents at the out-ports, and to undertake the amendment of the law from the body of notes which had been collected by the Agent-General.¹

This last duty was not completed till 1842, but meanwhile there was a supervision of the trade stricter and more searching than ever before. This was made somewhat easier at home, since the number of agents had been increased by appointments at London, Londonderry

¹ *P.P.*, 1840, XXXIII, 35, p. 7. Copy of Commission appointing and instructions issued to the Colonial Land and Emigration Commissioners.

and Sligo,¹ and on the American side Lord Sydenham co-operated by sending reports of the slightest infraction of the law and by himself making suggestions for the amendment of the Act. He is another convert to the principle that the weak and ignorant should have the protection of the law. In 1828 he had opposed the very modest measure of that year, and now he proposed regulations which the Commissioners had to reject as impracticable. These were that the agents should inspect the bedding and clothes and that a government agent and doctor should sail on every ship.² As a result of his reports, and those of Buchanan which he forwarded, the Commissioners conducted exhaustive enquiries, the results of which were printed for the satisfaction of Parliament.³ It is significant of improved conditions to notice how small the excess of passengers is compared with previous years; in most cases it was due to difficulty in calculating the exact age of a child, or to stowaways who had eluded the vigilance of the officers, while shortage of provisions was proved in many cases to be due to the improvidence of the Irish habits rather than to an inadequate supply to start with. In many cases the only remedy was rigorous prosecution in the Colonies—as, for instance, when a master refused to display a list of prices for the inspection of the agent, saying he did not intend to sell provisions, and then did sell them at the old exorbitant rates. This was pointed out to Lord Sydenham by Lord John Russell,⁴ who begged for co-operation in this way from the colonial authorities. As well, elaborate instruc-

¹ C.O., 386/25. List of agents sent to A. Wedderburn, St. John's, Sept. 17th, 1840.

² C.O., 384/67. Emigration Commissioners to J. Stephen, Aug. 17th, 1841.

³ P.P., 1841, XV, 298, p. 369. Correspondence concerning Emigration to Canada, *v.* as example the lengthy correspondence on the cases of the *John and Robert* and *Catherine*; on these vessels long papers. C.H. and C.O., 384/61.

⁴ C.O., 384/61, and P.P., 1841, XV, 298, p. 41. Lord J. Russell to Sydenham, Nov. 19th, 1840.

tions were prepared for the agents,¹ placards printed by the Customs for the guidance of emigrants² and—significant of new days which were coming with a revolution in transport—arrangements were made to send the lists of passengers forward by steam vessel in order that the colonial authorities could make preparations for their arrival, and easily detect any improper additions or alterations to the list.³

At last the Commissioners finished their investigations and brought their report before Parliament. It reflects Elliot's long-rooted objection to excessive regulation in the detailed argument with which he must have convinced himself of the necessity for a measure infinitely more comprehensive than any before. Because of the humble station of the emigrants and consequently their limited means of information, because they were an inland people with no knowledge of the sea, and because emigration was an object of so great importance to the whole labouring population, it seemed to the Commissioners a matter in which the law might "with propriety interfere much further with individual action, and much more endeavour to supply individual deficiencies than in most other subjects of legislation."⁴ As well they considered "every motive of humanity not less than considerations of national policy, would seem to call for an earnest endeavour to protect the poor people who display the spirit of enterprise." The reports of Lord Durham and Lord Sydenham also prompted action and they felt that the time had arrived when there had been sufficient experience on which to base a really satisfactory measure. The heads of the Bill they prepared for Stanley, now again

¹ C.O., 384/61, and *P.P.*, 1841, XV, 298, p. 40. Circular letter from the Emigration Commissioners to the agents at the out-ports, Oct. 16th, 1840.

² Index to Minutes of the Board of Customs, 1792-1843, May 9th, 1842.

³ C.O., 384/67. Emigration Commissioners to J. Stephen, Jan. 27th, 1841.

⁴ *Ib.*, p. 5.

Colonial Secretary, to lay before the Cabinet,¹ and their suggested amendments in full were printed for Parliament in order that members might have time to digest the detailed provisions. In spite of protests from ship-owners and brokers,² after amendments and re-amendments both in the Commons and the Lords, where it was entrusted to Goderich,³ now Lord Ripon, the measure became law.⁴

The Passenger Act of 1842 is a long and complicated measure of fifty-two clauses.⁵ The chief points of interest in it are the clauses which provided that the passengers should be victualled by the ship and that written receipts should be given and licences taken out by dealers and brokers who supplied passages for British North America. Both these had been suggested years before, but it had been felt that the first would unduly increase the cost, as emigrants usually gathered their supplies cheaply at home, and that the latter would be difficult to work. Now that there was a special establishment to deal with emigration it was easier. The licences were to be granted by justices of the peace, after twenty-one days' notice to the Commissioners, who kept the record. The penalty for any offence against an emigrant was to be £10 and the forfeiture of the licence. As there had been so many instances of privation on shipboard owing to the improvidence with which the emigrants quickly got through their supply, it was enacted that a ration of three pints of water a day and 7 lb. of bread-stuff, or an equivalent in potatoes, twice a week were to be served out. The

¹ C.O., 384/73. Memo. by Stanley, Feb. 2nd, 1842.

² See as ex. C.O., 384/73. F. Spaight to Stanley, Feb. 28th, 1842. A. Jordan to Stanley, March 8th, 1842.

³ C.O., 384/73. Memo. by Stanley, May 22nd, 1842.

⁴ For Debates see *Parl. Deb.*, 3rd Series, Vol. LX, pp. 76-9; LXI, p. 419; LXII, p. 497; LXIV, pp. 983-5; LXV, pp. 644-67. Except for Stanley's introductory speech, the debate turned on a controversial clause, afterwards omitted, concerning the emigration of Indian hill coolies to Mauritius.

⁵ 5 & 6 Vict. c. 107.

proportion to tonnage remained the same, but a space of 10 square feet, roughly double that secured under the Act of 1828, had to be allowed to each passenger, and every effort was made to secure punishment for all offenders. The fine for every breach of the law was increased to £50; the emigration agents as well as the Customs officials had the right to bring the case before any two justices of the peace, who could order a sale of goods, or commit to prison if the fine were not paid.

Thus the Commissioners for Colonial Land and Emigration attempted to steer between the two dangers which Lord John Russell had pointed out when he instructed them to deal with the question of the Passenger Act. One was the danger of "encroaching on the liberty of individual action . . . and exacting so much as to raise the cost of passage to a prohibitive price"; the other that of "failing to afford that general protection which it is on every account proper that His Majesty's subjects should receive from the public in embarking in large numbers for the colonies."¹

¹ 1840, XXXIII, 35, *op. cit.*, and C.O., 384/62. Lord John Russell's Instructions to the Colonial Land and Emigration Commissioners, Jan. 14th, 1840.

APPENDIX

A General Return of all Persons who emigrated from Liverpool between May 7th, 1833, and December 31st, 1839, under the supervision of Lieut. Low, R.N., Government Emigration Agent.

Date.	British North America.	United States of America.	Cape of Good Hope and Mauritius.	Australian Colonies				West Indies.	S. America and Brazil.	Total of Persons.	No. of Ships Employed.	No. of Seamen Employed.	Tonnage.
				Swan River	S. Australia	Hobart Town	Sydney						
May 7th, 1833, to Dec. 31st, 1838 . . .	—	—	—	—	—	—	—	—	126,583	1,544	28,967	696,313	
Jan. 1st to March 31st, 1839	52	3,485	—	—	385	—	230	615	4,248	57	544	13,979	
April 1st to June 30th, 1839	1,300	14,290	19	—	213	—	312	525	16,168	126	2,452	62,451	
July 1st to Sept. 30th, 1839	128	7,022	21	—	—	22	170	192	7,519	93	3,032	51,173	
October 1st to Dec. 31st 1839	—	2,815	—	—	188	8	430	626	2,645	52	1,218	27,665	
Total	1,480	17,612	40	—	780	30	1,142	1,958	158,161	1,874	36,213	851,581	

v. Colonial Office Records, 384/62.

