

“A monster in politics”: corruption and ‘Economical Reform’ in Jamaica, 1783-91

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Between 1781 and 1793 the British government embarked on a programme of ‘Economical Reform’ intended to address problems of political and administrative corruption revealed by successive defeats in the American Revolutionary War. It triggered a process that would root out entrenched or ‘Old Corruption’ from the British political system by the mid-nineteenth century. The underlying factors for its success have been debated, but one of the suggestions is that the campaign was no mere bureaucratic exercise, but involved a series of dialogues between popular demands, political practicalities and administrative realities that made for effective long-term change. Focussing on a comparable process of ‘economical reform’ undertaken at the same time but on a smaller scale in Jamaica during the 1780s shines a light on the experience of political reform in colonial settings after 1783, so far largely overlooked in the published scholarship, and contributes to this wider literature on corruption by reinforcing the importance of the interplay between political support and administrative direction. Reforms in Jamaica lacking such support failed, but where that support existed, it had to be channelled in productive directions, since the political ideology that gave the movement its edge could work both for and against productive reform. The example of Jamaica, for all the differences from Britain in its society and economy, therefore helps to clarify the process underlying the successful programme of anti-corruption in Britain as one involving both administrative expertise and political engagement.

1. 'Economic Reform' in Britain and Jamaica

The importance of the episode of Economic Reform in Britain in the 1780s for studies of corruption and anti-corruption lies in its importance as an example of a successful campaign against political and administrative corruption which inspired subsequent waves of reform, and helped to create a more professional civil service.¹ Between 1781 and the outbreak of the Revolutionary Wars with France in 1793, the British state cut back on excessive government bureaucracy, began a purge of sinecures and other unproductive offices, started to replace a system of fees and gratuities with uniform salaries, and checked the influence of both the executive and the legislature in appointments and promotions within the British civil service.² It is one of the episodes most frequently cited in historical surveys of British corruption and anti-corruption. However, '[it] did not arise simply out of the logic of intra-bureaucratic rationality', Hellmuth notes, 'but ... was also set in motion by political pressure from outside', specifically by a popular movement for reform arising out of

¹ Besides the broader studies discussed elsewhere in this volume, see in particular Philip Harling, *The waning of "Old Corruption": the politics of Economic Reform in Britain, 1779-1846* (Oxford University Press: Oxford, 1996), especially pp. 31-54; E. A. Reitan, *Politics, finance, and the people: Economic Reform in England in the age of the American Revolution, 1770-92* (Palgrave: Basingstoke, 2007); W.D. Rubinstein, 'The end of "Old Corruption" in Britain, 1760-1860', *Past & Present*, 101 (1983) pp. 55-86.

² John Breihan, 'William Pitt and the Commission on Fees, 1785-1801', *Historical Journal*, 27 (1984) pp. 59-81; J. Torrance, 'Social class and bureaucratic innovation: the Commissioners for Examining the Public Accounts, 1780-1787', *Past & Present*, 78 (1978) pp. 56-81

the humiliating experience of defeat in the American Revolutionary War and firmly convinced of the wasteful and extravagant habits of government.³

The comparison proposed by this chapter makes sense because the political system of Jamaica was deliberately modelled on that of Britain, as were other colonies in the British Atlantic. Legislative authority was vested in an elected house of assembly and an appointed council, corresponding to the houses of Commons and Lords.⁴ The governor was a viceroy who represented the Crown and its ministers, and, at least in principle, exercised its prerogative powers and wishes by appointing judges and other royal officials. Technically the sole role of the assembly was to pass legislation and approve taxation, but, as in Britain, it had made use of these powers over the course of the eighteenth century to obtain for itself a role in the government of the island, with its various standing committees exercising administrative power and overseeing key officials such as the island's receiver-general or treasurer.⁵ Jamaica's legislature was becoming increasingly active by this period, passing a large amount of legislation, and taxation and spending were also rising to unprecedented levels,

³ Eckhart Hellmuth, 'Why does corruption matter? Reforms and reform movements in Britain and Germany in the second half of the eighteenth century', in T.C.W. Blanning and Peter Wende (eds.), *Reform in Great Britain and Germany, 1750-1850* (Oxford University Press: Oxford, 1999) p. 22

⁴ Edward Kamau Brathwaite, *The development of Creole society in Jamaica, 1770-1820* (Oxford University Press: Oxford, 1971) pp. 40-59; Christer Petley, *Slaveholders in Jamaica: colonial society and culture during the era of abolition* (Pickering & Chatto: London, 2009) pp. 60-2

⁵ Frederick G. Spurdle, *Early West Indian government: showing the progress of government in Barbados, Jamaica and the Leeward Islands, 1660-1783* (Published by author: Palmerston North, New Zealand, 1962) pp. 7-27, 50-75

mirroring the expansion of British legislation and state formation in this period and providing unscrupulous colonial officials with similar opportunities for corruption.⁶

Moreover, politicians and the broader public in both Britain and Jamaica shared a common set of ideological assumptions about the nature and purpose of politics and the state. Notwithstanding the increasing influence in Britain of Enlightenment political thought and theory, this was instead a form of the 'Old Whig' or 'Country Whig' ideology which had developed in England in the seventeenth century out of a fusion of mediaeval English legal theory and the Renaissance recovery of Classical republican thought, and lay behind demands for Economical Reform in Britain.⁷

These theories stressed the importance of civic virtue and the impartial and independent gentleman as a bulwark against tyrannical rulers who threatened the liberty and property of the nation. Sinecures and salaries served to undermine the independence of such gentlemen by making them dependent on the ruler, and the purging of such corruptions from the body politic by abolishing such inducements and restricting waste and inefficiency within the administration was therefore a necessary part of the political process. Bernard Bailyn and others have shown that colonists in North America embraced a heightened version of this in the eighteenth

⁶ Aaron Graham, 'The colonial sinews of imperial power: the political economy of Jamaican taxation, 1768-1838', *Journal of Imperial and Commonwealth History*, 45 (2017) pp. 188-209; Aaron Graham, 'Jamaican legislation and the transatlantic constitution, 1664-1839', *Historical Journal*, 61 (2018) pp. 327-55. For Britain, see Julian Hoppit, 'Patterns of parliamentary legislation, 1660-1800', *Historical Journal*, 39 (1996) pp. 109-31; Patrick O'Brien, 'The political economy of British taxation, 1660-1815', *Economic History Review* 41 (1988) pp. 1-32

⁷ See above n. 1.

century, which helped to shape their reactions to the British imperial state in the 1760s and 1770s, and Jack Greene and Andrew O’Shaughnessy have demonstrated that this extended to the colonists of Jamaica and the West Indies as well.⁸

Few sources exemplify this better than *The History of Jamaica of 1774*, written by a Jamaican planter and politician named Edward Long who wore his strong political convictions on his sleeve.⁹ He emphasised, for example, the potential for limitless corruption amongst governors if they were not checked by an assembly. ‘[If] men of narrow souls and mean prejudices ... joined with a corrupt heart and a selfish, servile turn of mind’ were appointed’, he wrote, ‘they must necessarily be prompted to exercise every species of wanton caprice and oppressive and arbitrary measures, descending at the same time to the lowest practices of venality and dishonour’.¹⁰ The assembly of the island should be wholly comprised of independent freeholders, ‘to give the people of the colony that protection against arbitrary power which

⁸ Bernard Bailyn, *The ideological origins of the American Revolution* (Harvard University Press: Cambridge, MA and London, 1992); Jack P. Greene, “‘Of liberty and the colonies’: a case-study of constitutional conflict in the mid-eighteenth century British American empire’, in David Womersley (ed.), *Liberty and American experience in the eighteenth century* (Liberty Fund: Indianapolis, IN, 2006) pp. 21-102; Andrew O’Shaughnessy, *An empire divided: the American Revolution and the British Caribbean* (University of Pennsylvania Press: Philadelphia, PA, 2000) pp. 81-126

⁹ Kenneth Morgan, ‘Long, Edward (1734-1813)’, *Oxford Dictionary of National Biography* (2014) [<https://doi.org/10.1093/ref:odnb/16964>, accessed 14 November 2019]

¹⁰ Edward Long, *The History of Jamaica, or, General survey of the antient and modern state of that island* (3 vols., London, 1774) vol. i, 42

nothing but a free and independent assembly can give'.¹¹ This did not mean that Long or other planters were blind to the need for administrative efficiency or an active colonial state, but it did mean that such reforms had to be carefully managed to prevent those governors using them to exercise corruption and despotism and thereby reducing Jamaican colonists to slavery. Such concerns now appear almost hypocritically self-serving, especially given the brutal and dehumanising mastery which Long and other planters exercised over the tens or hundreds of thousands of slaves under their control, but were nevertheless important since they shaped how the public in Jamaica conceived of the campaign against corruption in the 1780s, and could work both for and against the cause of reform.

This campaign appeared necessary after 1783 because the American Revolutionary War had provided a brutal lesson in the inadequacies of existing administrative and political arrangements in the Jamaican state as well. Although the island was not much affected by the conflict until the French and Spanish entered the war in 1778 and 1779 respectively, the next few years were harrowing.¹² Spending rose from about J£60,000 in 1774 to a peak of J£240,000 in 1782 as the island poured money into the construction of fortifications to protect against invasion.¹³ Taxes rose to compensate, from about one per cent of national income in 1774 to up to eight per cent in 1782, creating new opportunities for corruption as governors and officials

¹¹ Ibid. vol. i, 55-6

¹² O'Shaughnessy, *An empire divided* pp. 160-84

¹³ Graham, 'Colonial sinews', p. 199. All figures are given in Jamaican currency (J£), approximately J£140 per J£100 sterling.

channelled this tidal wave of revenue. Even this was not enough, and the island was forced to go into debt by issuing 'certificates' to creditors for about J£115,000 by 1786 that carried ten per cent interest, making it impossible to cut taxes back to their previous levels after the end of the war in 1783. These stabilised at about J£120,000 during the 1780s, roughly two per cent of national income, and seemed to present new opportunities for corruption by taking away individual property and giving it to a class of officials subject to the control of the governor and council. Reforms were necessary in order to prevent these new elements of the colonial state from corrupting local politics, leading to a campaign for changes that mirrored the Economical Reforms taking place in Britain at exactly the same time.

These could and did take place because the Jamaican political system gave a certain degree of political freedom to the narrow white male elite of the island, about 1,500 people out of roughly 250,000 in the 1780s.¹⁴ Besides voting for members of the assembly, individuals could petition the assembly directly on matters of concern, as could the twenty or so parish vestries which made up the local government of the island.¹⁵ Vestries and meetings of freeholders also occasionally instructed their members in the assembly how to vote on key issues. The burgeoning public sphere of the island represented another opportunity for people to make their voices heard, both by reprinting these petitions and instructions as well as by reporting the

¹⁴ Petley, *Slaveholders in Jamaica* pp. 62-4; Brathwaite, *Creole society* pp. 47-9

¹⁵ Aaron Graham, 'The principle of representation in Jamaica and the British Atlantic in the age of revolutions, 1768-1807', *Parliaments, Estates and Representation* (published online, 2019); Graham, 'Jamaican legislation', pp. 333-4

proceedings of the assembly, enabling informed debate.¹⁶ All of these sources can be used to reconstruct the process of ‘Economical Reform’ – though it was never explicitly called that – in Jamaica during the 1780s. As in Britain, political power underpinned the reforms and proposals which lacked popular support fell by the wayside, but the process was also shaped by the animating assumptions of the Country Whig ideology, which in some cases led supporters to block reforms that promised administrative efficiencies at the expense of political accountability.

2. The Receiver-General’s Office

Among the loudest demand made in Jamaica after 1783 was for reforms that would relieve the growing weight of taxation or equalise its burdens and force the house to exercise greater control over its spending. For example, in October 1786 the vestry of St Andrew’s told their representatives that ‘the present distressed state of the island requires and calls aloud for the utmost frugality and economy of its public treasures’.¹⁷ Consequently, they were not to vote any taxes except for ‘the payment of the contingencies and services of the island, its just debts and [the] support of its public credit ... [as] the present distressing times will not allow of the public money to be voted and granted away in acts of benevolence or compliment’. As in Britain,

¹⁶ Brathwaite, *Creole society* pp. 31-9; Andrew Lewis, ‘An incendiary press’: British West Indian newspapers during the struggle for abolition’, *Slavery & Abolition*, 16 (1995) pp. 346-61; Petley, *Slaveholders in Jamaica* pp. 40-1

¹⁷ Jamaica Archives and Records Department, Spanish Town, Jamaica [hereafter JA], 2/6/40 (St Andrew’s Vestry, Minutes, 1781-7) pp. 239-40

the reality of the 1780s was therefore widespread popular demand for economy and restraint in public spending and taxation.

In Britain the initial response to these demands was the formation of a Commission for Examining the Public Accounts between 1780 and 1787, drawn from the worlds of politics and commerce and charged with a business-like enquiry into waste in public administration.¹⁸ In Jamaica the assembly similarly voted powers in 1784 to the members of the Commission of Public Accounts, a standing committee of the house on financial matters that had first been formed in the 1730s, to gather the information necessary to assess the current status of public finances and make recommendations for reform.¹⁹ Although upon a much smaller scale than its British counterpart, which assembled a large clerical staff to cope with the immense volumes of paper which descended upon the office, the Commissioners in Jamaica developed their own bureaucracy, hiring a secretary and clerks and a permanent office.²⁰ 'After the needful arrangements of office and forms of proceeding were settled', they reported in 1787, 'we agreed upon certain standing rules and orders for the greater uniformity and regularity of business'.²¹ They then embarked on a detailed study of the Jamaican state, focussed on the Receiver-General and his office, the state of the public debt, and the heavy burden of taxation in the island.

¹⁸ See above n. 1.

¹⁹ *Journals of the House of Assembly of Jamaica* (14 vols., Kingston, Jamaica, 1808-26) [hereafter *Journals*] vol. viii, 91

²⁰ *Ibid.*, vol. viii, 323. For the British commission, see Torrance, 'Social class', pp. 56-81.

²¹ *Journals*, vol. viii, 323

Among the problems that the commissioners found was that the public accounts were entirely confused and utterly incomprehensible. Despite repeated instructions to the Receiver-General since 1774 to maintain very clear distinctions in his accounts between the various funds under his control but also to draw them together into a summary account that showed his overall financial position, neither had been done. 'The perplexed and irregular manner in which the public accounts have been hitherto kept' meant that it was not clear whether or not the island was raising enough money to cover its expenditures, while the same problems meant that the commissioners could not establish the real size of the public debt or to whom it was owed.²² They also lacked the necessary legal powers to require the Receiver-General to provide the necessary accounts. Most seriously, they found that the Receiver-General was himself unaware of the real state of finances, due to the practice of breaking down accounts into separate funds; 'indeed, we do not find that a due knowledge and accurate representation of them have ever been required', they concluded, 'nor hath it been customary ... to prepare or offer any account of the actual receipts and yearly produce of the taxes'. Without such oversight, the Receiver-General could neither take a strategic view of income and expenditure nor police the activities of his subordinates. 'We conceive it possible', they were forced to conclude, '[even] for a man of wealth, honour and integrity [as Receiver-General] to be imposed upon either by the designs or the incapacity of his dependents in office and to be kept in ignorance of the real state of the public accounts'.²³ The

²² *Ibid.*, vol. viii, 323-4

²³ *Ibid.*, vol. viii, 325

problem was therefore wider than the inefficiency or malfeasance of an individual, and bringing colonial taxation under control would mean reforming the system.

Similar issues in Britain led the Commissioners for Examining the Public Accounts to recommend in 1787 that the various separate funds be amalgamated into a single Consolidated Fund, 'into which shall flow every stream of the public revenue, and from which shall issue the supply for every service'.²⁴ Apparently independently, the Commissioners of Public Accounts in Jamaica reached much the same conclusion, arguing that the laws on the books requiring a general account of public cash should be enforced and all funds 'constitute and be considered as one general cash, and be applied indiscriminately to every service'.²⁵ In Britain the commissioners also made several recommendations for the reform of auditing and accounting, including the replacement of existing audit mechanisms with five Commissioners of Audit, with enhanced powers to clear the backlog of accounts.²⁶ The commissioners in Jamaica were equally uncompromising. 'Neither the practice of office nor the individual and personal interest of the officer should be permitted to subsist in opposition to the public', they argued, 'and we are of opinion that such a control should be established upon all public receipts and payments as morally to prevent the possibility of collusion or abuse'.²⁷ This included enhanced powers to the commissioners of public

²⁴ Reitan, *Politics, finance* p. 181

²⁵ *Journals*, vol. viii, 326

²⁶ J.E.D. Binney, *British public finance and administration 1774-92* (Oxford University Press: Oxford, 1958) pp. 7-19, 189-208, 244-54; Harling, *Waning* pp. 74-8, 133-4

²⁷ *Journals*, vol. viii, 326

accounts to examine and sign off the Receiver-General's accounts quarterly, as well as a full audit of his books going back as far as 1778.²⁸ By 1788 these measures were in operation, allowing the commissioners to turn their attention elsewhere.

Economical Reform in Jamaica therefore resulted in a suite of accounting measures for the reform of its central financial infrastructure resembling the paradigmatic reforms adopted in Britain, demonstrating the similar nature of the problems each legislature faced. The small size of Jamaica and the close connection between the assembly and the administration shows with even greater clarity than in Britain the crucial importance of popular pressure in pushing forward the initial examination of these problems and in shaping the solutions which emerged. Financial reform was undertaken in the face of prolonged political agitation from below, which required members to identify why levels of taxation were so high, and then how measures might help the assembly to exercise tighter control over spending. The solutions were economical in both senses of the word, enabling financial restraint but also requiring only a minimal increase in the size of the colonial state, and would thus sit well with constituents concerned about increases in taxes. They would also fall most heavily on the Receiver-General, who was usually either a British appointee or an ambitious Jamaican official renting the office from its British proprietor, and who therefore usually squeezed it for fees and bribes as a source of profit rather than treating it as a public trust.²⁹ These reforms in Jamaica thus emerged once popular demands for reform were guided along newer channels of financial practice.

²⁸ *Ibid.*, vol. viii, 326-7

²⁹ Brathwaite, *Creole society* pp. 13-15

3. Taxes and the collecting constables

Besides the large overhang of public debt at the end of the war, the island also found itself in 1783 with considerable arrears of taxation and in some cases grave doubts about the impartiality and efficiency of those collecting them. The assessment of taxes was in the hands of local vestries, and collection was the responsibility of the collecting constables employed by each parish, who then sent their monies to the receiver-general at regular intervals and took legal action against defaulters who were unable or unwilling to pay.³⁰ The key records within this tax system were the 'rolls' or lists of assessments for each tax produced by each vestry, which informed the collecting constable how much to collect and the receiver-general how much to expect, calculated on the basis of the 'givings-in' submitted annually by each estate. Defaulters were transferred to the 'arrearage rolls', which were also forwarded to the receiver-general and the collecting constables. As the commissioners turned their attention to the public debt, it became clear that measures were needed to address corruption there too. 'It will appear essentially requisite to adopt some effectual means of forwarding the collection of the funds', they reported, '... [and] in this situation the necessity of bringing forward every latent resource in aid of the public funds renders it incumbent on them to point them out, wherever their enquiries have discovered a prospect of deriving advantage from them'.³¹

³⁰ Ibid. pp. 22, 42; Petley, *Slaveholders in Jamaica* p. 55

³¹ *Journals*, vol. viii, 470-1

It is difficult to judge whether or not their concerns were true. Similar accusations were made in England throughout the long eighteenth century against land tax commissioners and collectors, for instance, and against the small corps of officials who remitted the funds to London.³² In Jamaica, a governor had complained as long ago as 1754 of the 'peculiar methods' used to raise money in the island, particularly the widespread abuse of their powers by vestrymen who also sat in the assembly, and proposed a bill 'to prevent this kind of partiality and influence' by banning them from sitting in the house.³³ However, since it was interpreted as a political attack upon the colonists intended to force his opponents out of the assembly, it was rejected. Edward Long noted in 1774 that the present system enabled about J£60,000 in public and parochial taxes to be collected cheaply for only about J£2,500, 'a circumstance very favourable to the planters, on whom the burthen principally rests'.³⁴ Since it also ensured that the collecting constables remained accountable to – and under the thumb of – the planters who controlled both local and colonial government, this acted as a further disincentive for reform. In the relatively easy conditions of the 1760s and 1770s, while spending remained low and the security of the island seemed assured, planters may well have been ready to accept a degree of inefficiency in the collection of taxes, particularly since the alternative was to accept a greater degree of oversight and control by the imperial government.

³² W. R. Ward, *The English Land Tax in the Eighteenth Century* (Oxford University Press: Oxford, 1953) pp. 22, 42-51

³³ The National Archives of the United Kingdom, Kew [hereafter TNA], CO 137/27, ff. 17r-v

³⁴ Long, *History* vol. i, 67

By 1783, however, the situation looked different. With an enormous debt to pay off, such inefficiency seemed a luxury that the colonial state could no longer afford. The arrears had risen from around J£53,000 in 1776/7 to nearly J£145,000 in 1784/5, over twice as much as the taxes voted for that year and more than sufficient to pay off the public debt.³⁵ In 1783 they amounted to over J£130,000, more than double the taxes voted for that year and sufficient to pay off the public's debts.³⁶ As the commissioners overhauled the Receiver General's Office and established the real financial position of the colony, they began to recognise, as the governor had done in 1754, that the issue needed attention. 'The evil which under this establishment most sensibly affects the public and excites the general clamour is the partial collection of the taxes and the immense sums appearing due to the public as a result of it', they noted in December 1787, '[and is] an evil which calls aloud for the immediate and effectual interposition of the assembly'.³⁷ Since much of the 1788 session was occupied with re-examining the public debt it was only in late 1789 that the commissioners were able to give their full attention to the revenue system, and to diagnose the main problem as the influence that the parish vestries, rather than the receiver-general or the assembly, exercised over the collecting constables.³⁸

This report then formed the basis for the final report of the commissioners of public accounts in December 1790, which noted that over J£100,000 in arrears were still

³⁵ *Journals*, vol. viii, 221, 350, 448, 483; vol. ix, 162, 254, 357

³⁶ *Ibid.*, vol. ix, 78

³⁷ *Ibid.*, vol. viii, 326

³⁸ *Ibid.*, vol. viii, 472-3, 533-4

outstanding, 'merely for want of that efficiency in the laws, which the commissioners have before represented and think it their duty again to submit to the serious consideration of the house'.³⁹ Further examination had shown that there was a serious lack of consistency in the regulations under which different parishes were to assess public taxes, which prevented the efficient collection of revenues even when parishes were supportive. 'Independent of these circumstances, the justices and vestries of the different parishes are not in general sufficiently attentive to the execution of the laws for raising the taxes', as a result of which the assessment of taxes was still frequently incomplete, and the collecting constables remained dependent on the vestries, '[so] it frequently happens that they are deterred from exerting their power to enforce payments by the influence of those who are instrumental in their appointment'.⁴⁰ The commissioners therefore proposed to tackle the root of the problem by moving the appointment of collecting constables from the vestries to the receiver-general, who would then be superintended by the commissioners of accounts, while a committee of the assembly would bring in a standing bill containing all the regulations usually inserted into the individual money bills, providing a standardised and uniform set of procedures for collecting taxation. 'By such means the duty and proceedings of all magistrates, vestries and public officers relative to the givings-in', they concluded hopefully, 'assessment, collection and payment of public taxes will be regulated, ascertained and established'.

³⁹ Ibid., vol. viii, 608

⁴⁰ Ibid., vol. viii, 609

Like the proposed reforms of the Receiver-General's Office, these changes were economical in both senses of the word, seeking to lower the costs of administration and increase its yield while cutting back on political corruption in the system. But they failed because they were not what their constituents wanted. Parishes approved measures intended to close loopholes in the tax law – the Kingston vestry lobbied hard in this period for the assembly to close a loophole which allowed temporary residents to escape parish and island taxes – but they were much less willing to give up control over their own parish officers, particularly while the assembly continued its unchecked spending.⁴¹ As the vestry of St George's parish noted in 1813 when the reform was finally achieved, this was 'depriving them of an important privilege [which] this vestry cannot in justice to their constituents pass over in silence', since Country Whig ideology strongly opposed the principle of public officers not being accountable to their constituents.⁴² For the moment then, and without political support, the reforms stalled; as the era of Economical Reform in Jamaica petered out in March 1792, the commissioners of accounts noted that they 'have had further experience of the defects of the present regulations established for the collection and payment into office of the public taxes'.⁴³ However, now their only remedies were to advertise publicly and threaten legal measures against all defaulters, '[but] the commissioners cannot entertain any sanguine expectations of the effect of this advertisement'. Economical Reform failed in this instance, not because its solutions were ineffective but because they were unpopular with the

⁴¹ JA, 2/6/6 (Kingston Vestry, Minutes, 1781-6) ff. 80v, 113r, 114r, 121v, 159v-160r

⁴² JA, 2/18/1 (St George's Vestry, Minutes, 1801-16), entry for 17 April 1813.

⁴³ *Journals*, vol. ix, 109-10

small segment of the Jamaican public capable of wielding political influence, since they trespassed on important and long-standing political arrangements.

4. Judges and judicial salaries

The third area of attempted reform during this period in Jamaica even more fully exemplifies this point, since it saw public pressure in Jamaica block measures that were seen, at least through the lens of Old Whig ideology, as fundamentally corrupt in their intent, but which are now widely regarded as a necessary antidote to corruption. These were proposals to raise the salaries of judges in the most important of the island's courts, in order to increase the standards of legal practice by attracting people who had trained in law in Britain. Recent work on corruption has emphasised how the inadequate remuneration of officials can lead to bribe-taking, backhanders and inefficiency, and making officials dependent on fees or fines can compromise their loyalty to the public interest.⁴⁴ However, key elements within the Jamaican public during the period of Economical Reform, informed by their Old Whig convictions, argued that it would shift judicial power away from planters and into the hands of the executive by creating a tribe of dependent placemen. They therefore lobbied in order to preserve inefficient, but accountable, judiciary.

⁴⁴ For a recent survey of this topic, see James M. Anderson and Eric Heiland, 'How much should judges be paid? An empirical study on the effect of judicial pay on the State bench', *Stanford Law Review*, 64 (2012) pp. 1277-1341

The independence of the judiciary was a long-standing concern of Jamaican planters and merchants from the late seventeenth century onwards. By the 1770s the court structure of the island included range of local tribunals and slave courts that were staffed mainly by unpaid magistrates drawn from the local white elite.⁴⁵ The higher courts included the Court of Vice-Admiralty and its single professional judge, which handled maritime law, and the Grand Court under the Chief Justice, assisted by a bench of unpaid Assistant Justices; he was paid only about J£120 per year, with the balance made up by fines and fees.⁴⁶ ‘His post is of great trust and of the utmost consequence to the well-being of the colony’, Long noted in 1774, ‘...[and] he should be entirely free in his mind and independent in his circumstances, that he may administer justice without fear or favour’.⁴⁷ To effect this though he did not propose raising the salary of the post to attract independent men educated in the law, not least because Jamaican law was itself not amenable to the pettifogging practices of England. ‘The bulk of our island laws were for the most part framed by persons not educated in the practice of the law’, he said, ‘but by plain well-meaning planters ... so we find them, or at least many of them, so loosely worded as not to bear the nice and subtle distinctions attended to by the gentlemen of the long robe’.⁴⁸ The

⁴⁵ Brathwaite, *Creole society* pp. 16-18; Alexander L. Murray, ‘The constitutional development of Jamaica, 1774-1815’ (Unpublished PhD thesis, University of London, 1956) pp. 195-8.

⁴⁶ Murray, ‘Constitutional development’, pp. 198-202. By comparison, the Governor received a salary of J£8,000 per year. The Attorney General had a salary of J£400 per year, but the value of his office was reckoned to be double that: Clements Library, Ann Arbor, MI [hereafter CL], Strachey MS vol. ii, 48, 52, 53

⁴⁷ Long, *History* vol. i, 70-1

⁴⁸ *Ibid.* vol. i, 71

elimination of corruption for Long therefore did not lie in using a large salary to lure to Jamaica a qualified professional – ‘a mere hackneyed lawyer’ – but in appointing planters and local gentlemen who could interpret the law with reference its spirit rather than its letter, and ‘[admit] some little proportion of equity and common sense to qualify that obstinate rigour and *abracadabra* of downright legal jargon’.⁴⁹

Long therefore articulated a traditional Country Whig critique of the needless and unjust pedantry of the English common law, to be addressed by other measures to maintain the political independence of the office.⁵⁰ For example, English judges since the Act of Settlement in 1701 had held their offices on good behaviour (*quamdiu se bene gesserint*) and could therefore not be removed at the whim of the executive, but only on the address of both houses of Parliament. By contrast, the Chief Justice and other judges in Jamaica held their office at pleasure (*durante bene placito*), turning the office into an instrument of patronage that could then be exploited by governors for political ends. ‘I can call to mind more than one Chief Justice displaced by an imperious governor’, noted Long, ‘for no other cause than he having voted in assembly according to their conscience’.⁵¹ He therefore argued for the Chief Justice to hold his office on good behaviour, and even to be banned from

⁴⁹ Ibid. vol. i, 72-3

⁵⁰ For the Country Whig tradition of legal reform, see G.B. Warden, ‘Law reform in England and New England, 1620 to 1660’, *William and Mary Quarterly*, 35 (1978) pp. 668-90. For views of judicial corruption, see Wilfred Prest, ‘Judicial corruption in early modern England’, *Past & Present*, 133 (1991) pp. 67-95.

⁵¹ Long, *History* vol. i, 71

sitting in the council or assembly, otherwise he would be 'liable to have his judgement warped by influence or his passions heated by the cabals and wrangling of party'. Cutting down the numbers of Assistant Judges from the hundred or so in 1774 by restricting them to a few gentlemen of good character would further raise the standing of the law, while also acting as a check upon the Chief Justice himself from overawing judges of much lesser status.⁵² To avoid the problem of partiality in local appointees, Long had no solution, beyond a pious hope that such appointees would rise to the occasion, an oversight which reinforces how far he and other planters were not concerned about the administrative character of the office but about keeping its political power out of the corrupting hands of the executive.

To be clear, Long and others were not opposed to the principle of judicial salaries. Discussing the Vice-Admiralty court, Long noted that the Judge and officers there were dependent upon fees and fines for their remuneration, 'which may prompt them to make every advantage possible of their several departments ... in a seat to which bribes may approach with secrecy and be received with impunity'.⁵³ The solution was a moderate but reliable salary, which the judge would undoubtedly prefer over the risks and obloquy of the profits of bribes, and which would result in a court 'much better constituted for the ends of impartial justice'. As a former judge of the Vice Admiralty Court himself, Long was undoubtedly writing from a position of

⁵² Ibid. vol. i, 74

⁵³ Ibid. vol. i, 77-9. It was estimated in 1774 that the office of the Judge was worth J£1,200 per annum; that of the Register or Registrar about J£1,200; the Advocate General about J£1,500; and even the Marshall about J£800: CL, Strachey MS vol. ii, 49

both experience and bias, but his comments help to reinforce the case that neither he nor others were opposed to judicial salaries in principle, and even recognised them as an effective safeguard against partiality and corruption. However, such considerations were secondary to that of constraining the political power of the executive to override law and corrupt the fundamental constitutions of the state. Some degree of judicial inefficiency was an acceptable trade-off in order to prevent such an outcome, especially when the law itself that the Chief Justice would be interpreting did not call for the hair-splitting technical expertise – ‘a vain parade and ostentation of *regular lawyership*’ – which Long claimed he had often observed as a student at Gray’s Inn during the 1750s.⁵⁴ Economical Reform in Jamaica after 1783 amounted to the political application of these principles to defeat anti-corruption measures which threatened the control by the planters of law in the island.

As a result, efforts to introduce a bill for judicial salaries were defeated in 1782, 1783 and 1785, the last by a flurry of petitions from individual parishes which show clear evidence of being part of a coordinated political campaign.⁵⁵ Multiple meetings of the freeholders submitted petitions against the proposed bill, which aimed to ‘load this island with accumulated expenses, unheard-of in former ages ... [and] more than can be afforded by this miserable and exhausted country, already drained by every act of ministerial oppression.’⁵⁶ Echoing Long’s concerns, parishes each complained

⁵⁴ Ibid. vol. i, 73

⁵⁵ Murray, ‘Constitutional development’, p. 202; *Journals*, vol. viii, 109, 113-14, 118-19, 122, 123, 129, 135

⁵⁶ *Journals*, vol. viii, 109

in almost identical language that the proposal would introduce political corruption into the assembly and result in the judges more concerned about their salary than justice, as well as being profoundly inequitable, since neither jurymen or vestrymen expected to be compensated for their own public service.⁵⁷ Such complaints were often joined with vocal support for a place bill that would exclude persons holding government office from the assembly, including the judges themselves if the salary bill was passed. To allow the unchecked exercise of government patronage would corrupt the system and turn the assembly into a tyrant itself. 'It is a monster in politics, equally dreadful as the wicked system of a Spanish inquisition, to which alone it can be compared', several noted, arguing that it would 'destroy and annihilate that beautiful symmetry of our inestimable constitution, which depends upon the freedom and independence of the representative body of the people'.⁵⁸

Indeed, resistance to the professionalisation of the judiciary remained a consistent element in Jamaican politics into the early nineteenth century. Similar proposals were defeated in 1796 and 1797, and although the imperial government rejected a compromise in 1801 to raise the salary of the Chief Justice but require him to have practised in Jamaica for at least three years, they had to accept this compromise in

⁵⁷ This was therefore an appeal to the 'unacknowledged republic' of amateur officeholders: Mark Goldie, 'The unacknowledged republic: officeholding in early modern England', in Tim Harris (ed.), *The politics of the excluded, c 1500-1850* (Palgrave: Basingstoke and New York, 2001) pp. 153-94

⁵⁸ JHA vol. viii, 109, 119, 129

1804.⁵⁹ After a substantial report by the assembly itself in 1809 listing the problems arising from absenteeism and the lack of professional training about judges, the assembly eventually agreed to provide salaries to the senior assistant judges of the assize courts in the island and raised their salaries, while now insisting that the Chief Justice had to serve for five years as an assistant Judge in order to be eligible for the enhanced salary, which was raised to J£5,600 in 1818.⁶⁰ Reform therefore came about eventually, but several decades after the moment of Economical Reform and hedged about with conditions intended to preserve the independence of the higher judiciary from the governor. Measures to introduce new and more professional standards into the administration of justice during Economical Reform in Jamaica were thus stymied by political opposition, demonstrating the power of political support, but this time exercised in opposition to anti-corruption reforms.

5. Conclusion

The experience of Economical Reform in Jamaica during the 1780s therefore helps to support existing interpretations of the process in Britain which stress not only the role of administrative expertise in anti-corruption but also the crucial importance of real political support. In both places this was exercised through a legislature that was relatively open to the upper levels of the political elite, who were demanding reforms intended to root out waste and corruption in the wake of military defeat.

⁵⁹ See 45 Geo. III c. 17 and 47 Geo. III c. 13 in *The Laws of Jamaica* (7 vols., St Jago de la Vega, Jamaica, 1802-24) vol. v, 6, 74-5; Murray, 'Constitutional development', pp. 202-5.

⁶⁰ See 51 Geo III c. 27 in *Laws of Jamaica* vol. vi, 75-8

Where and when this political pressure was willing to be guided by technical expertise, it succeeded in implementing measures that might appear recognisably 'modern' in their intent, such as the creation of clear and transparent financial mechanisms and auditing structures that enabled budgetary management and political oversight. Where political backing was lacking or when that expertise clashed with deeply-held principles, technical solutions stood much less chance of being adopted. In Jamaica, the paranoid concerns about the exercise of tyrannical and unaccountable power evinced by Old Whig ideology and so visible in Long's writings meant that the public resisted efforts to raise the standards of the judiciary and revenue service by isolating them from local pressures. In Britain, because the reformers attacked 'Old Corruption' and the machine politics created by abuses of patronage by successive ministries, they devoted a disproportionate amount of time to the removal of sinecures and the regulation of fees, despite these accounting for only a small proportion by value of the money spent – or mis-spent – by the state.⁶¹

The relative success of Economical Reforms in effecting change in Britain and Jamaica was therefore not the result of either bureaucratic leadership or political support, but rather provisional and also highly unstable combinations of the two.

⁶¹ Breihan 'Fees', pp. 59-81.