

WRITINGS ON
AUSTRALIA

II.

HISTORY OF JEREMY BENTHAM'S
DEALINGS WITH LORD PELHAM

JEREMY BENTHAM

edited by

TIM CAUSER AND PHILIP SCHOFIELD

The Bentham Project 2018

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Jeremy Bentham, *Writings on Australia, II. History of Jeremy Bentham's dealings with Lord Pelham*, ed. T. Causer and P. Schofield, pre-publication version, The Bentham Project, 2018.

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The Collected Works of Jeremy Bentham

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

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EDITORIAL INTRODUCTION

The ‘History of Jeremy Bentham’s dealings with Lord Pelham’¹ consists of a series of letters and documents compiled by Bentham. They date from 12 April 1802 to 21 August 1802 and focus on correspondence exchanged between Bentham and Charles Bunbury,² who acted as an intermediary between Bentham and Pelham.³ This material in effect constitutes a history of the beginning of Bentham’s assault on the New South Wales penal colony, and his attempt to use his ‘Letter to Lord Pelham’ to cajole the government into proceeding with his panopticon penitentiary scheme. Along with the correspondence are two marginal contents sheets for a work entitled ‘Panopticon versus New South Wales’. These marginal contents offered a summary of ‘Letter to Lord Pelham’, and included an ‘Introductory Note’ to Pelham, in which Bentham set out his grievances in regard to his treatment over the panopticon. The text also includes Bentham’s account of his interview at the Treasury on 9 July 1801 with John Hiley Addington⁴ and Charles Long.⁵ While the correspondence has been published previously in the *Collected Works of Jeremy Bentham*, it has never before been published in this form. Moreover, the account of the interview and the marginal contents sheets are published here for the first time.

While it is unclear when precisely the correspondence and documents, which are in the hand of Bentham’s amanuensis John Herbert Koe,⁶ were compiled and prepared, it was most likely around August 1802. Bentham may at one point have envisaged including them in ‘A Picture of the Treasury’, which was addressed to Pelham and contained a detailed account of his dealings with the Treasury in relation to the panopticon between 1798 and 1801, and from which ‘Letter to Lord Pelham’ was itself extracted.

¹ The title to this collection of correspondence and commentary has been supplied by the editors.

² Sir Thomas Charles Bunbury (1740–1821), MP for Suffolk 1761–84, 1790–1812.

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

⁴ John Hiley Addington (1759–1818), chief Secretary to the Treasury from March 1801 to July 1802.

⁵ Charles Long (1760–1838), later first Baron Farnborough, junior Secretary to the Treasury 1791–1801.

⁶ John Herbert Koe (1783–1860), Bentham’s secretary for around twenty years from c. 1800, was admitted to Lincoln’s Inn in November 1804, called to the bar in 1810, was made Q.C. in 1842, and was a county court judge from 1847 until his death.

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

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

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

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

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

The text presented below is a preliminary version, in that the authoritative version

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

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September 2018

A NOTE ON THE PRESENTATION OF THE TEXT

The text presented here of the ‘History of Jeremy Bentham’s dealings with Lord Pelham’ reproduces the versions of the correspondence, marginal contents sheets, and ‘Introductory Note’, from Boxes 120 and 121 of the Bentham papers at University College London.⁷ It has been editorial policy to reflect as far as possible the manuscript sources on which the text is based, but without sacrifice thereby of clarity and sense. Bentham’s spelling and capitalization have been retained in most instances, although editorial discretion has been more liberally exercised with regard to his punctuation, which is often inconsistent and sparse. Punctuation marks have been adjusted and supplied where clearly indicated by the sense, or required for the sake of clarity, but not in cases where this might involve a dubious interpretation of the meaning. The words and phrases underlined by Bentham for emphasis have been rendered in italics, as have all non-English words and phrases.

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

The archival references for the original manuscripts on which the text is based appear on the left-hand side of the text, except where a folio begins mid-sentence, when they appear in the body of the text. The numerals [119-087], for instance, refer to box cxix, folio 87, in the Bentham Papers, University College London Library Special Collections.

⁷ Autograph drafts of the correspondence, marginal contents sheets, and ‘Introductory Note’ are at BL Add MS 33,543. The correspondence and ‘Introductory Note’ were first published in *The Correspondence of Jeremy Bentham*, vol. vii. ed. J.R. Dinwiddy, Oxford, 1988 (CW), though not in the form presented here.

SYMBOLS AND ABBREVIATIONS

Symbols

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

Abbreviations

| | |
|------------|--|
| BL Add. MS | British Library, Additional Manuscripts. |
| Bowring | <i>The Works of Jeremy Bentham</i> , published under the superintendence of .^^. John Bowring, 11 vols., Edinburgh, 1843. |
| CW | This edition of <i>The Collected Works of Jeremy Bentham</i> . |
| MS orig. | Original manuscript reading. |
| UC | Bentham Papers in University College London Library's Special Collections. Roman numerals refer to boxes in which the papers are places, Arabic to the folios within each box. |

[HISTORY OF JEREMY BENTHAM'S DEALINGS
WITH LORD PELHAM]

Please begin new recto.

[120–012^{r1}]

N° 1.⁸

M^r Bentham to Sir C. Bunbury.⁹

12th April 1802.

Dear Sir

By what I understood from my Brother¹⁰ t'other day, according to what he understood from you—You had the goodness to say that you had not only mentioned the Penitentiary business to Lord Pelham¹¹—but that you should have no objection to mention it in Parliament.¹² In the event of your continuing in the same mind, it would be of great use to me to have an interview with you on the subject, provided you could find time

⁸ An autograph draft of this letter, at BL Add MS 33,543, fo. 561, is reproduced in *The Correspondence of Jeremy Bentham*, vol. vii, ed. J.R. Dinwiddy, Oxford, 1988 (CW), p. 13.

⁹ Sir Charles Thomas Bunbury (1740–1821), MP for Suffolk 1761–84, 1790–1812, had been an admirer of Bentham's panopticon penitentiary scheme since 1791 (see Bunbury to Bentham, 19 February 1791, *The Correspondence of Jeremy Bentham*, vol. iv, ed. A.T. Milne, London, 1981 (CW), p. 238, and the Editorial Introduction, pp. 000 above) and had supported Bentham's panopticon penitentiary proposal in a debate in the House of Commons on 31 May 1793, when moving resolutions critical of the treatment of prisoners awaiting transportation and the conditions they encountered on the voyage to New South Wales.

¹⁰ Sir Samuel Bentham (1757–1831), naval architect and inventor, who was at this time Inspector-General of Naval Works.

¹¹ Thomas Pelham (1756–1826) was Home Secretary from July 1801 to August 1803 in the administration of Henry Addington (1757–1844), later first Viscount Sidmouth, Speaker of the House of Commons 1789–1801, leader of the administration as First Lord of the Treasury and Chancellor of the Exchequer 1801–4, and afterwards Lord President of the Council 1805, 1806–7, 1812, Lord Privy Seal 1806, and Home Secretary 1812–22. On 29 June 1801 Pelham had been summoned to the House of Lords in his father's Barony of Pelham of Stanmer and hence was styled Lord Pelham until he succeeded as second Earl of Chichester on his father's death on 8 January 1805.

¹² Bunbury did not raise 'the Penitentiary business' in the then current session of Parliament, which ended on 28 June 1802 and which was followed by a general election, but did so in the following session when on 17 December 1802, in a debate on the Felons Transportation Bill, he argued that prisoners awaiting transportation should be held in a panopticon: see *Parliamentary Debates* (1802) 1. 435.

enough for what would be necessary to say about it, which would not be less than half an hour. In that event if you would be kind enough to name time and a place, I would attend you thankfully & with pleasure.

Please insert short rule.

Mr Sir Charles thereupon called upon M^r Bentham, that day or the next in Queen Square Place.

Please insert short rule.

N^o 2.¹³

M^r. Bentham to Sir C. Bunbury.

25th April 1802.

Dear Sir

Penitentiary Establishment

Inclosed are some papers^a which will serve to shew you how the business stands as between me and the present Treasury.

^a These were the correspondence of M^r Bentham with Mess^{rs} Addingtons and Vansittart,¹⁴ together with the Memorial mentioned in the next letter.¹⁵ The

¹³ A copy of this letter, at BL Add MS 33,543, fo. 562, is reproduced in *Correspondence (CW)*, vii. 15–16.

¹⁴ i.e. Henry Addington and his brother John Hiley Addington (1759–1818), who was chief Secretary to the Treasury from March 1801 to July 1802, and Nicholas Vansittart (1766–1851), later first Baron Bexley, who was financial Secretary to the Treasury from March 1801 to July 1802, when he succeeded Hiley Addington as chief Secretary, a position he held until April 1804. For Bentham's correspondence with them in relation to the panopticon penitentiary scheme see *The Correspondence of Jeremy Bentham*, vol. vi. ed. J.R. Dinwiddy, Oxford, 1984 (*CW*), pp. 383–5, 391, 396, 403–8, 411, 443–4, 446.

¹⁵ See p. 000 below.

correspondence was the same as that sent on a former occasion to M^r Wilberforce.¹⁶

As soon as you can find time, after you have cast an eye over them, I hope to be favoured with an interview for the purpose of concerting further operations:—and I flatter myself that there will be no need for me to wish to trouble you, to say any thing about the business in Parliament.

Please insert short rule.

[120–012^{v1}]

N^o 3.¹⁷

M^r. Bentham to Sir C. Bunbury.

30th July 1802.

Dear Sir

I do not exactly recollect—neither is it necessary—how many weeks it is, since I had the honour of attending you at your house. At my request you had the goodness to take charge of some papers for Lord Pelham. They consisted of my correspondence with the present Treasury,¹⁸ and a suppressed Memorial, which if M^r Long¹⁹ had not contrived by a trick to sink it, would have been delivered in to the late Treasury.²⁰ You said you would

¹⁶ William Wilberforce (1759–1833), politician, philanthropist, and slavery abolitionist, had supported Bentham’s panopticon penitentiary plan. Bentham states at p. 000 below that he had sent the material to Wilberforce in December 1801.

¹⁷ A copy of this letter, at BL Add. MS 33,543, fos. 574–5, is reproduced in *Correspondence (CW)*, vii. 67–8.

¹⁸ See p. 000 above.

¹⁹ Charles Long (1760–1838), later first Baron Farnborough, junior Secretary to the Treasury 1791–1801.

²⁰ Bentham had submitted what he termed his ‘Armed Memorial’, that is a document containing reasons, to Long on 21 April 1800. According to Bentham’s account in ‘A Picture of the Treasury’ (UC cxxi. 135–41), at a meeting on 10 June 1800 arranged by Evan Nepean (1752–1822), Under Secretary at the Home Office 1782–94, Under Secretary at the War Office 1794–5, Secretary of the Admiralty 1795–1804, Chief Secretary to the Lord Lieutenant of Ireland 1804, Lord of the Admiralty 1804–6, and Governor of Bombay 1812–19, between Long, Joseph White (d. 1815), Treasury Solicitor 1794–1806, Nepean himself, and Bentham, Long declared the ‘Memorial’ to be inadmissible, whereupon Nepean, who proved himself a steadfast supporter of Bentham’s panopticon penitentiary scheme, intervened and ensured that Long agreed to receive an ‘Unarmed

make a point of seeing his Lordship, if possible, in the course of the two or three days that remained before the day fixed for your leaving Town, (the then next Saturday or Sunday) and you had the goodness to add spontaneously, that you would let me know what passed. Not having heard from you since, my conclusion is—either that some letter of yours to me has miscarried—or that you were not fortunate enough to catch his Lordship—or that your conversation with him was such as it was not pleasant to report—terminating possibly by a desire of silence <on> his part towards me.

The particular object of the trouble I am now giving you, is—to beg to know what is become of those papers: as likewise to beg you would be kind enough if they have not been sent, to send them to Lord Pelham, or if that be not agreeable to you, to return them to me as soon as you can make it convenient. I should of course be glad to hear any thing in relation to them, that you have no objection to communicate.

I have a communication just ready to make to his Lordship of a very different sort, though arising out of the same business; and it will be giving him abundance of useless trouble (not to speak of other trouble which is of no value) if instead of referring him to those papers as being already in his hands, I should have a long story to tell him, about the ineffectual pains taken so long ago in the hope of getting them there.²¹

Believe me &c.

[120–012^{r2}]

P.S. Being under great difficulties and anxieties for want of knowing what is become of these papers, I cannot but hope to receive relief from you by return of post, as to *that point*; supposing you not to have time to say any thing more. Other difficulties I have none.

Please insert short rule.

Memorial’ consisting of a single page. On 19 June 1800 Bentham sent his ‘Unarmed Memorial’ to the Lords Commissioners of the Treasury. For the ‘Armed Memorial’ see *Correspondence (CW)*, vi. 471–85.

²¹ Bentham had been composing ‘A Picture of the Treasury’, which was addressed to Pelham and contained a detailed account of his dealings with the Treasury in relation to the panopticon penitentiary proposal between 1798 and 1801. ‘Letters to Lord Pelham’ were in effect extracted from a section of this work. For further details see the Editorial Introduction, pp. 000 above.

Sir C. Bunbury to M^r Bentham.Brighton, August 1st 1802.

My Dear Sir

I have just received your's. The Papers I sent very soon after I received them to Lord Pelham. I had called several times upon him in vain, but I met him in Pall Mall, and told him I had received from you the Papers which he desired me to send to him; at the same time I spoke in favour of your plan, and reprobated the treatment you had met with; I was going on when other Gentlemen came up and interrupted us. I then said I should be glad of an opportunity, when he had read the papers, of conversing with him more fully on the subject. He has never sent to me, and I have never seen him since; as, soon after I went into Suffolk, the Elections came on &c. &c.²³ But I expect he will be here in a few days, and I intended, if I had not received your letter, to have resumed the subject whenever he fell in my way.

As I had nothing to tell you, but that I had delivered the papers, as I said I would, to Lord Pelham, and as I thought you knew me to be punctual enough to do that I said, or to give you an account why I could not do it, I did not write to you, which I am very sorry I did not, & hope for your forgiveness; but I certainly *took for granted*, Lord Pelham would send for you, & see you, when he had read the Papers, as I am sure I should have done so if in his situation. That he has not, much surprises me, & looks as if some persons had endeavoured to prevent him, since he seemed by his manner to agree with my remarks in your favour, though he said only he was inclined to approve the plan of Penitentiaries.

Yours &c.

Please insert short rule.

[120–012^{v2}]

²² The autograph letter, at BL Add. MS 33,543, fos. 576–7, is reproduced in *Correspondence (CW)*, vii. 69.

²³ Bunbury was returned for Suffolk without a contest on 15 July 1802.

M^r. Bentham to Sir C. Bunbury, Brighton.2nd August 1802.

Dear Sir

I am most thankful, as I ought to be, for the favour of your most kindly prompt and ingenuous letter. From the circumstances you mention, it is but too plain, that on the part of M^r Addington in the first instance, and through him on the part of Lord Pelham, the force of imagined personal interest is no match for the sense of public duty, though backed by the obligations of justice. My expectations (for I confess to you I am not yet without my expectations) are not bottomed on any such precarious grounds. That they should do their duty without being forced, is indeed what I do not expect: but I still expect that they will do their duty, because I do expect that they will be forced to it. All perfidy—all treachery—all unavowable conduct in public men—is founded on wrongheadedness: & in the present instance, so it has happened—that the same incapacity and shortsightedness that led the former people (with whom the present people are linked)²⁵ into the commission of so much injury, led them moreover into scrapes which they are probably little aware of, & have thereby given to the party injured certain advantages, which happily *he is* aware of, & will not be backward to pursue.

As to Parliament—You yourself, my dear Sir, with all your experience in Parliament, cannot be more fully aware than I with my no-experience have always been, how very faint a chance would be possessed by a case like this, if success depended upon the obtaining against the existing Administration of the Country, a Vote of Parliament. Happily my expectations, such as they are, rest on no such aërial ground.

Believe me &c.

P.S. Think not from any thing above, that I regard with the less interest, the kind

²⁴ A copy of this letter, at BL Add. MS 33,543, fos. 578–9, is reproduced in *Correspondence (CW)*, vii. 70–1.

²⁵ The ‘former people’ were those involved in the administration of William Pitt the Younger (1759–1806), First Lord of the Treasury and Chancellor of the Exchequer 1783–1801, and in particular George Rose (1744–1818), Secretary to the Treasury 1782–3, 1783–1801, and Long, and the ‘present people’ those in the administration of Addington, and in particular Hiley Addington and Vansittart.

efforts you announce: to yourself they will not be dishonourable, & it might be matter of use probably, of curiosity certainly, to me to be apprized of the dispositions manifested in consequence, before or during the working of other engines.

P.S. 2nd. Saturday 7th August. The above was written at date, but kept in expectation of something that has not happened. You would oblige me much by sending me, on the day you know of L^d Pelham's arrival,^b a piece of paper saying L^d P. is come.

^b viz: at Brighton.

Please insert short rule.

[120-013^{r1}]

N^o 6.²⁶

M^r Bentham to Sir C. Bunbury, Brighton.

9th August 1802.

Dear Sir

Your sentiments have hitherto been (I believe) to a certain degree in favour of Botany Bay: a sufficient proof to me that you are not sufficiently apprized of the facts belonging to it. To recognize its utter repugnance to every one of the proposed or supposed objects of it, would not cost you a tenth part of that candour for which Panopticon was in so eminent a degree your debtor, in its comparison with a much worthier rival.²⁷

The perusal of the two sheets herewith sent^c will not call for more of your time than I flatter myself you will indulge me with. The paper itself, of which they are the contents, is ready to follow at the first word. There are about 60 or 70 pages of it.²⁸

²⁶ The original letter, at Pelham MSS, BL Add. MS 33,109, fo. 331, is reproduced in *Correspondence (CW)*, vii. 71–3.

²⁷ Bentham presumably had in mind the various prisons built in the late 1780s and early 1790s according to plans drawn up by William Blackburn (1750–90), surveyor and architect.

²⁸ i.e. the first of the 'Letters to Lord Pelham', pp. 000 below.

As to Lord Pelham and C^o, if they dare look the truth in the face, the use of the *paper* to them is—that in case of a reformation on their part, whatever be the *real* motive, they may not be unprovided with an *ostensible* one.

Having notice from you of its existence, if he receives it and gives an answer to it, it is well: if not, or no positive answer comes—in a word if he shuffles as the Addingtons did (not to speak of his Lordship’s own constantly useless dispositions entertained for almost this twelvemonth) to work goes the other engine without mercy:³⁰ then, if they are mad, and stand out, they will be blown to atoms the whole gang—in and out together: or if at any time they submit and save their bacon, it will be at the expence of their reputation—a prodigious slice of it.

The halter they have about their necks is such an one as I dare venture to say there is no example of in history: for the particular *degree* of its strength, I expect every hour the opinion of a Council of the first eminence:³¹ but to know that it is strong enough to do their business, in one way or other, no such Oracle is necessary: *ed io anch’io son pittore*.³² In the course of the eight years provocation I have endured,³³ I think [120–013^{v1}] you must have given me credit for something in the way of *sang froid* & prudence at least, in never having stooped to go to Acheron³⁴ with my story:—Oh! how would his chops water did he

²⁹ See pp. 000 below.

³⁰ i.e. Bentham’s view that there was no legal basis for the settlement at New South Wales, as eventually expressed in ‘Plea for the Constitution’, pp. 000 below.

³¹ i.e. Bentham’s friend Sir Samuel Romilly (1757–1818), Solicitor General 1806–7: see Bentham to Romilly, 27 August 1802, *Correspondence* (CW), vii. 90–1.

³² i.e. ‘And I too am a painter.’ This was the remark attributed to Antonio Allegri da Correggio (1489–1534) on seeing the painting ‘The Ecstasy of St Cecilia’ by Raffaello Sanzio da Urbino, known as Raphael (1483–1520) at Bologna in 1525. See A.C. Danto, *Encounters and Reflections: art in the historical present*, Berkeley, 1997, p. 94.

³³ i.e. since the passing of the Penitentiary Act of 1794 (34 Geo. III, c. 84), authorizing the establishment of a panopticon penitentiary.

³⁴ Perhaps a slip for Charon. In Greek mythology, Acheron was a son of Helios and either Gaia or Demeter, who had been turned into the underworld river that bore his name, and over which the newly dead would be ferried by Charon. Bentham may have had in mind the leader of the Whig opposition Charles James Fox (1749–1806), Foreign Secretary 1782, 1783, 1806, who would thereupon have ferried the present ministers into opposition.

but know of the *bonne bouche* I could treat him with!

Should Lord Pelham wish to see the substance of the paper in print (for example to serve him as an ostensible warrant for doing his duty, and to afford him the plea of necessity for breaking so many illegal and corrupt promises as there will be to break) he could be accommodated without difficulty. The hostilities in it would cost me much less trouble to put out than it did to put them in. They were put in, why? because the conduct of this present Administration has all along been such to me, as never to hold out to me any *hopes* but from their *fears*.

Losing the post of yesterday has since given me time for running over Collins's continuation of his New South Wales History from Sept^r 1796 to August 1801.³⁵ The predictions I had hazarded as above, are verified to a degree astonishing even to myself. The most promising settlements (Hawkesbury & Norfolk Island) either abandoning or recommended to be abandoned. Famine, at the time of the greatest possible future plenty at all times probable, from any one of five sources—1. Drought. 2. Inundation. 3. Fire (natural). 4. Incendiarism & 5. Savage hostility, against which defence is unavailing. As to returns to England the idea of preventing them on the part of Expirees (an imprisonment always illegal) is now disclaimed, though illegal exceptions continue to be made. Returns by Non-expirees less and less preventible. The profligacy always universal and at its maximum: the D. of P. with M^r K, with full notice of it, spreading lies to the contrary, for no better purpose than that of pimping to the whims of Lord B. about his Milbank Estate,

³⁵ On his return to Britain, David Collins (1756–1810), Deputy Judge Advocate of New South Wales 1787–96, later Lieutenant-Governor of Van Diemen's Land 1803–10, published *An Account of the English Colony in New South Wales: with Remarks on the Dispositions, Customs, Manners, &c. of the Native Inhabitants of that Country. To which are added, Some Particulars of New Zealand; compiled, by permission, from the MSS. of Lieutenant-Governor King*, London, 1798, which detailed the history of the colony from its establishment in 1788 to his departure in 1796, and then *An Account of the English Colony in New South Wales, From its First Settlement, in January 1788, to August 1801: with Remarks on the Dispositions, Customs, Manners, &c. of the Native Inhabitants of that Country. To which are added, Some Particulars of New Zealand; compiled, by permission, from the MSS. Of Lieutenant-Governor King; and An Account of a Voyage Performed by Captain Flinders and Mr. Bass; by which the Existence of a Strait Separating Van Dieman's Land from the Continent of New Holland was Ascertained, Vol. II*, London, 1802, containing, as Bentham states, a continuation of the history of the colony to 1801. Bentham drew extensively on Collins's works in 'Letters to Lord Pelham'.

to the prejudice of his real interests, as declared by all his professional advisers.³⁶

Impeachable matter crowds in, in such quantities, the only perplexity is about the choice. A single drop in this ocean of guilt and that demonstrable by record, has been declared assets for impeachment by professional men of the first eminence—no party men—and in the coolest blood. I have exhausted my own paper and (I fear) your patience.

Yours &c.

Talk of Bastiles?—New South Wales the true Bastile: the other, if true, a molehill to a mountain.³⁷

Please insert short rule.

☞ Sir Charles being at this time on his return from Brighton, the above letter, instead of being sent on, was kept by him at his house in Pall Mall. On the 11th M^r B. called on him at Pall Mall, and proposed to him, that instead of troubling himself to hunt for Lord Pelham with but little chance of finding him, he should send to his Lordship the above letter with the accompanying papers {No^s 12, 13, & 14}³⁸ which he might do without saying it was at the desire of M^r. B. Sir Charles accordingly promised to do so: but M^r B, anxious to provide against a sort of treatment to which he had been so much accustomed, as soon as he got home, wrote to Sir Charles a letter of which the following is a copy.

Please insert short rule.

[120–013^{r2}]

³⁶ Bentham blamed William Henry Cavendish Bentinck (1738–1809), third Duke of Portland, Home Secretary 1794–1801, and John King (1759–1830), Under Secretary at the Home Office 1791–1806, for sabotaging his efforts to establish his panopticon penitentiary, on the grounds of a secret promise made to Robert Grosvenor (1767–1845), styled Viscount Belgrave, who on 5 August 1802 had succeeded as second Earl Grosvenor and in 1831 was created first Marquis of Westminster, that the prison would not be built on land adjacent to his estate.

³⁷ The House of Correction, Cold Bath Fields was known as ‘the Bastille’, or more colloquially as ‘the Steel’, after the notorious prison in Paris, the storming of which was generally said to have marked the beginning of the French Revolution.

³⁸ See pp. 000 below.

M^r Bentham to Sir C. Bunbury.11th August 1802.

Dear Sir,

If no particular time is mentioned, within which it is expected that notice should be taken of my papers,⁴⁰ no notice will ever be taken of them, until some adverse step on my part is known to have been taken, and then it will be said of me—*the fault lies in his own rashness—for had his patience lasted him but a day longer, the notice he was wishing for would have come*. Therefore it is, that I set pen to paper once more, for the purpose of begging of you to say in your letter to Lord Pelham, that on your promising to write to his Lordship on the subject, it was my special request to you, that you would have the goodness to give his Lordship to understand very distinctly, that if, within a week from this date 11th August 1802—I were not fortunate enough to receive the honour of a letter in his Lordship's hand addressed to myself, my *conclusions* would be that no such good fortune ever would befall me, and that my future proceedings would be built on that *declared* ground. If the paper at length were sent in the first instance, the length of it might afford a plea for taking it *ad referendum*: but when the question is merely whether he will or will not read a paper of which these are the marginal contents, that excuse has no place. As to *dictating* a time to his Majesty's Secretary of State, most certainly I have no such absurd pretensions: but as to any conclusions of my own, presented to my own judgment, by my own memory and my own reflections, they depend upon the *premises*, and are as independent even of my own will, as they are of that of his Majesty's Secretary of State.

Question (possible) on the part of Lord Pelham. How came M^r B. never to apply to me all this time?

Answer 1. One reason is given in the correspondence (M^r B. with Mess^{rs} Addington and Vansittart) which you had the goodness to transmit to Lord Pelham.⁴¹—2. Another

³⁹ An autograph draft of this letter, at BL Add. MS 33,543, fos. 582–3, is reproduced in *Correspondence* (CW), vii. 76–7.

⁴⁰ i.e. Nos. 13–14, pp. 000 below, as mentioned at p. 000 above.

⁴¹ See p. 000 & n. above.

is—M^r B. had no pretence to the honour of being *remembered* by his Lordship. M^r. B's Brother the General had: he was on speaking terms. When Gen^l B, after permission asked and obtained, waited on L^d P., at his house in Stratton Street, for the purpose of speaking to him on this subject as well as another (it was before he had possession of his office in the Treasury)⁴² his Lordship gave him to understand by a servant, that it was *not* convenient to see him then, and did *not* give him to understand, that there would be any *other* time at which a visit would be less unacceptable.

[120–013^{v2}]

In a separate paper, is a list of documents. The trouble of description will be saved to you if you will have the goodness to send it to me by post, with the date filled up and your signature. Pardon, if you can, this *Major Cautela*⁴³ (he is a sad troublesome old fellow) and believe me most truly yours &c.

August 1802

Sent to Lord Pelham the papers following—

N^o 1. M^r Bentham, Q.S.P. to Sir Charles Bunbury, Brighton. 9th Aug. 1802.^d

⁴² According to Maria-Sophia Bentham, *The Life of Brigadier-General Sir Samuel Bentham, K.S.G., formerly Inspector-General of Naval Works, lately a Commissioner of His Majesty's Navy, with the Distinct Duty of Civil Architect and Engineer of the Navy*, London, 1862, p. 207, Samuel Bentham had in June 1801 applied to Pelham (presumably on the grounds that he was about to be appointed Home Secretary) on behalf of 'some of the most deserving' convicts then working at Portsmouth dockyard, whose good conduct had been noted by his subordinates. These men had been ordered to be transported to New South Wales, despite their sentences of transportation being due to expire within twelve months. Though Samuel was not 'fortunate enough to find Mr. Pelham at home, he enclosed to him a list of the deserving men in question', and stated that "'The transporting men of this description, besides being evidently unjust, and productive of unnecessary expense, seems also particularly objectionable on account of its tendency to diminish very materially the inducement for good behaviour in all other convicts, who cannot fail to observe that the most meritorious conduct has only served to single these men out for transportation, whilst numbers of the most profligate and disorderly are suffered to remain in the country till their terms have expired.'" Samuel was, Maria-Sophia added, 'much gratified by a ready compliance with his request'. Maria-Sophia Bentham, née Fordyce (1765–1858) had married Samuel in October 1796.

⁴³ i.e. 'greater caution'.

^d N° 6.⁴⁴

N° 2. Panopticon versus New South Wales Marginal Contents—2 folio Sheets each written on one side inclosed in N^{os} 2 & 3.^e

^e N^{os} 13, 14.⁴⁵

N° 3. Introductory Note to d^o private to Lord Pelham: one 4^{to} sheet on one side.^f

^f N° 12.⁴⁶

Please insert short rule.

N° 8.⁴⁷

Sir Charles Bunbury to M^r Bentham.

12th August 1802.

Sent to Lord Pelham the papers following—

N° 1. M^r Bentham, Q.S.P. to Sir Charles Bunbury, Brighton. 9th August 1802.^g

^g N° 6.

N° 2. Panopticon versus New South Wales Marginal Contents—2 folio sheets each written on one side inclosed in N^{os} 2 & 3.^h

^h N^{os} 13, 14.

N° 3. Introductory Note to d^o—private to Lord Pelham: one 4^{to} sheet on one side.ⁱ

ⁱ N° 12.

⁴⁴ See pp. 000 above.

⁴⁵ See pp. 000 below.

⁴⁶ See p. 000 below.

⁴⁷ This copy of the letter is reproduced in *Correspondence (CW)*, vii. 77–8.

Newmarket, August 13th 1802.

Dear Sir

I sent the above mentioned papers to Lord Pelham's in Stratton Street yesterday morning the 12th. He was expected in Town in a day or two. I hope Lord P. is friendly both to you, & the Panopticon Plan, and therefore should not wish to hold any language that might seem hostile. I will let you know as soon as I hear from him. I did *not* fix any time for his seeing you, as I can do that in a second letter, when I know he is arrived in London, and has received the Papers. Yours &c.

Please insert short rule.

[120–014]

N^o 9.⁴⁸

Sir Charles Bunbury to M^r Bentham.

Great Barton, 20th August 1802.

Dear Sir

I have received the enclosed letter from Lord Pelham,⁴⁹ to whom I wrote in favour of the Panopticon Prison, and your strong claims on Government.

I hope his answer (which I send you in confidence) will prove satisfactory, as it seems to imply approbation, and promises immediate attention to the business, and a decision upon it by the meeting of Parliament.

I shall pass through London again in about a month, when I will call upon you and give any further aid in my power.

Yours &c.

If you write to me, be pleased to direct to me at the Post office Chester.

⁴⁸ This copy of the letter is reproduced in *Correspondence (CW)*, vii. 79–80.

⁴⁹ i.e. N^o 10 below.

Please insert short rule.

N° 10.⁵⁰

Lord Pelham to Sir Charles Bunbury.

Wimbledon, 19th August 1802.

My dear S^r Charles

I have received M^r Bentham's Papers, and will find out what steps have been taken by the Treasury before I send for him, as it appears to me that to give him any false hopes, would in the present state of his mind, produce the very worst effects.^j⁵¹ At all events I will apply my mind to the subject, and endeavour to get something settled before the meeting of Parliament.

Pretended anger of J.B. Subsequent anger a justification of precedent injuries.

^j This observation, about the state of my mind—a point perfectly immaterial to the business in hand—is the only sort of notice that either his Lordship or M^r Addington or M^r Hiley Addington have ever been able to bear to take of it.

When on Thursday 9th of July 1801, after leaving M^r Hiley Addington and M^r Long together,⁵² I was sitting in M^r Vansittart's room, according to the appointment he had made with me,⁵³ M^r Hiley Addington, in passing through the room, treated me with the observation that *I was angry*: although at that very moment, I was cool enough to be discussing with M^r Vansittart, with the most perfect composure, a business of great intricacy, that bore not the smallest reference to it.⁵⁴ This is the recourse of men who,

⁵⁰ A copy of this letter, at BL Add. MS 33,543, fo. 586, is reproduced in *Correspondence (CW)*, vii. 79 n.

⁵¹ Bentham may have intended to insert this note at UC cxxi. 332 (3 September 1802), which appears to have been written for 'Picture of the Treasury', at this point: for further details see the Editorial Introduction, p. 000 above.

⁵² For Bentham's account of his interview with Hiley Addington and Long on 9 July 1801 see pp. 000 below.

⁵³ See p. 000 below.

⁵⁴ In a note dated 27 August 1802 and written for 'Picture of the Treasury' at UC cxvi. 393, Bentham recalled that Vansittart had written to him on 7 July 1801 (missing), asking him to call on him on at 10.30 a.m. on 9 July 1801, to discuss what was almost certainly Bentham's annuity note scheme. After arriving and 'waiting several hours after he knew of my arrival I was shewn in to Mr Hiley Addington, with whom I found Mr Long who had been an hour or an hour and a half with him in close conference. I have drawn up a relation of this concerted, and to me most unexpected conference, which was an extremely curious one. The object of it

knowing that the part they are taking is indefensible, are bent upon persevering in it. So long as the destined victim keeps to the line of sollicitation, they take no notice of him at all: when, for the purpose of trying the powers of fear upon minds callous to justice, he assumes the tone of inculpation, then the notice they take is that he is *angry*: and then the hope is, that his anger may swell to such a pitch as to afford (as in M^r Palmer's case) a subsequent pretence for the predetermined injustice. For terrifying the confederacy, and, if possible, frightening them into the path of probity, I did choose to be angry enough, and ever angry enough, and am angry enough and always will be angry enough, and they were and are frightened accordingly: for giving them any advantage over me, I do not choose to be angry enough, nor will they ever find me so.

If, on an action upon a Contract, a Judge were, from the argument of the Counsel, to make the discovery that the Counsel was angry, or from the fact of the bringing of the action that the Plaintiff was angry, and so give judgment for the defendant, his regard for justice would be an exact copy of that which has been manifested now for this year and a half by the Mess^{rs} Addington and Lord Pelham. Whether their real corruption is to be washed clean by my pretended anger, in the eyes of the public and Parliament, is an experiment to be tried.

Though my anger, real or supposed, is nothing to the purpose, that is very far from being the case with the notice they are pleased to take of it. It shews how perfectly self-convicted they are and confounded by conscience—how unable to find so much as the shadow of an excuse.

With very sincere regard ever Your's most faithfully

Please insert short rule.

[120–015^{r1}]

was to put me by from insisting on a demand, which they were alike afraid to comply with or refuse. A sham offer was made me by Mr Long (500 Convicts with compensation for the reduction). The mode was by accusing me of perversity for not having understood him to have meant what I knew it to be impossible he should have meant, besides that it is expressly negatived by his own official letters. Mr Vansittart kept me quiet till Parliament was up by another lure, and by marks of pretended kindness:—but that the offer was never meant to be realized'. For Bentham's account of the meeting, to which he presumably alludes, see pp. 000 below.

M^r Bentham to Sir C. Bunbury.21st Aug. 1802.

My Dear Sir

I have this moment to thank you for your kind letter inclosing that of Lord Pelham.⁵⁶ And has this passed upon Sir Charles Bunbury for ‘satisfaction’? My dear Sir, you have not been at the fair lately. This is the old lay over and over for the hundredth time. This is Sanconiathon and the Cosmogony, again and again, with Ephraim Jenkins,⁵⁷ Pitt, Rose, Long, King, Portland, Addington, Robertson,⁵⁸ Lathrop Murray⁵⁹ at the bottom of it.

To be serious.—In your situation, stranger as you happily are to the incidents, with which my memory is stocked, in such minute detail and such unhappy abundance, his letter appears to have produced (as it was but natural it should produce) the effect it was intended to produce—viz: that of appearing to ‘imply approbation’. But what approbation?—that very approbation which was somewhat more than implied almost a twelvemonth ago, but without producing the smallest particle of that satisfaction, the hope of which (such is your good opinion of your friend) continues notwithstanding to be produced by it. For my own

⁵⁵ A copy of this letter, at BL Add. MS 33,543, fos. 593–6, is reproduced in *Correspondence (CW)*, vii. 81–7.

⁵⁶ i.e. N° 10 above.

⁵⁷ In *The Vicar of Wakefield: A Tale. Supposed to be written by Himself*, 2 vols., Salisbury, 1766, by Oliver Goldsmith (c. 1728–74), Ephraim Jenkinson convinces the unworldly Vicar, Rev. Dr Primrose, of his intellectual credentials by making a speech about the creation of the world, citing Sanchoniathon as a philosopher who had attempted to explain cosmogony. Jenkinson proceeds to swindle the Vicar of some money. Primrose later again encounters Jenkinson, who begins to make the same speech about cosmogony, but on this occasion Primrose exposes Jenkinson as a fraud.

⁵⁸ Possibly an allusion to a female swindler named Robinson who, according to *The Annual Register, or a View of the History, Politics, and Literature, for the Year 1801*, London, 1802, pp. 12–13, had, by pretending to be a wealthy heiress, defrauded a series of tradesmen of goods valued at upwards of £20,000.

⁵⁹ In the *London Gazette*, 31 March 1802, it was announced that a Royal Warrant had been issued granting permission to a person styling himself ‘Sir Robert Lathropp Murray, bart.’ to change his surname to ‘Brown Clark’, but in the *London Gazette*, 13 April 1804, it was announced that the Warrant had been cancelled. It was subsequently reported in *The Times*, 15 April 1802, that the person concerned had no relation to the baronetage.

part, I wish it were possible for me to see any thing better in it than a *qualis ab incepto*⁶⁰—a perseverance in the same system of complicity and evasion, that he and his Colleagues adopted at their entrance into the Ministry, with the materials for decision passing through their hands, and staring them in the face. Till the meeting of Parliament,⁶¹ he has obtained a respite from you (so he thinks at least) by his talk about ‘endeavours’: when Parliament meets, he shirks you (as before) as long as he can, and when you have caught him at last, and forced him to speak out, then it is that you will learn, that *he is sorry for it but his ‘endeavours’ have been fruitless.*

[120–015^{v1}]

The amusement it affords me to see what turn evasion takes in such a mind—in such a situation—and in such circumstances—is the only satisfaction I have derived from his epistle. The two characters in which he affects to view me, are—that of a patient labouring under a sort of mental derangement (though, the hope is, but a temporary one) and that of a suitor—an unfledged suitor—prone to embrace phantoms for realities, and panting for the felicity of falling at his feet. As to the ‘*present state of my ‘mind’*’ you may venture to assure his Lordship, that it is precisely the same as it was above a twelvemonth ago, as he has seen in my papers (if he has been pleased to look at them)—in my papers of that date⁶²—as it has been ever since—and as it will continue to be, so long as the like impressions continue to be made upon it by the action of the like causes. He may see the same ‘mind’ in the same ‘state’ in my printed evidence, as laid, in June 1798, before the Committee of Finance.⁶³ and, if such things were worth preserving, you yourself my good Sir, could furnish him with some copies of it, written four years earlier, at a time when perfidy and corruption were in the bud, and when Lord Spencer, after seating himself for the first time at the same table with M^r Pitt, stood up and said, *I am now above the law*—

⁶⁰ See Horace (Quintus Horatius Flaccus), *Ars Poetica*, 127: *qualis ab incepto processerit, et sibi constet*, i.e. ‘have it kept to the end even as it came forth at the first, and have it self-consistent’.

⁶¹ The newly elected Parliament eventually opened its session on 16 November 1802.

⁶² See p. 000 & n. above.

⁶³ Bentham’s examination before the House of Commons Select Committee on Finance, dated 23 June 1798, had been printed in ‘Twenty-Eighth Report from the Select Committee on Finance. Police, including Convict Establishments’, dated 26 June 1798, Appendix G, and reproduced in *House of Commons Sessional Papers of the Eighteenth Century*, ed. S. Lambert, 145 vols., Wilmington, Delaware, 1975, cxii. 3–216 at 78–82.

M^r Pitt answering and saying—*So you are.*⁶⁴—For his Lordship’s determination not to ‘give’ me any of those ‘false hopes’ which, in a state of mind less compassionate, another man in my place might have been treated with, and which I have been saved from being plied with in consideration of the tremendous effects (those indescribable ‘*worst effects*’) of which an application of that sort might in my place have been productive, he is certainly not to be blamed: not indeed in respect of any such bad effects, or any effects that any machinery in use for the raising of such phantoms could have produced (for all the powers of mechanism could not add any thing to the exhibitions of that sort that have been so familiar to me for these [120–015^{r2}] these eight years) but because no attempt in that way can be of any use to him and his associates, whereas the abstaining from it leaves a load the less on their character and their conscience.

Throughout the whole of the business, from the time when the finger of corrupt and clandestine opposition was held up by the first in the train of successive Lords, the general rule has been to give nothing but ‘*hopes*’, and those hopes ‘false’ ones. Witness one sample instead of a thousand:—Orders—official orders (24th March 1800) to make preparations for 2,000 Convicts⁶⁵—these orders in a letter concerted, between the two floors of the Treasury,⁶⁶ for the express (and afterwards even avowed!) purpose, of making a pretence for giving none. All this (you say) is old and stale. The new incident then, is—that for once—*pro hâc vice*⁶⁷—this rule, is now (it seems) to be departed from: departed from, not *de jure*, but *ex gratiâ*,⁶⁸ in consideration of the particular circumstances of this very particular case. Understand always, provided his Lordship continues to the end in the sentiments now professed: an expectation in which this very letter forbids me to indulge myself.

I will tell you, my good Sir, what their plan, and what my chance is under it: judge whether it can content me.

⁶⁴ Bentham believed that George John Spencer (1758–1834), second Earl Spencer, Lord Privy Seal 1794, First Lord of the Admiralty 1794–1801, Home Secretary 1806–7, had used his position in Pitt’s Cabinet to prevent the compulsory purchase of his land at Battersea Rise as the site for the panopticon penitentiary.

⁶⁵ See Long to Bentham, 25 March 1800, *Correspondence (CW)*, vi. 279.

⁶⁶ The Treasury and the Home Office were located on the first and second floors of the Treasury Building respectively.

⁶⁷ i.e. ‘for this occasion only’.

⁶⁸ i.e. ‘not from right, but out of grace’.

In the first place they fall at the feet of the ‘*bag of oats*:’^j that gained (which is impossible) then, with that in their hand, they fall at the feet (such feet as adders have) of the *deaf adder*:⁶⁹—I mean the pious Lord, who is so well known to take that hero of Scripture history for his model:⁷⁰ but lest they should fail in either—(and they will fail in both—) thence come the expeditions of discovery—the expeditions for finding out what steps have been taken at the Treasury, and the fears about the giving of false hopes. Shut against every thing could be said about his land, and about the effect of the Penitentiary Establishment upon the value of it, by his Land Surveyor and his Land Steward,⁷¹ you will judge whether the ears of [120–015^{v2}] of that personage are likely to open themselves with more facility upon those topics to the representations of a First Lord of his Majesty’s Treasury, or his Majesty’s Secretary of State.

^j A most noble Duke, whose aspect, on the occasion of any application made to him which is either unpleasant to him or unintelligible (of which latter sort are most applications that are made to him) has been depicted under that emblem by persons who have had more opportunities of observing it than I have.⁷²

So long ago as the 10th of September 1801, M^f Vansittart (as declared by him in a letter, copy of which had been already for a month or two in the hands of Lord Pelham at his Lordship’s desire, as signified to you) M^f Vansittart, acting Secretary to the Treasury, was labouring in the fruitless endeavour of finding ‘*an opportunity of consulting with Lord Pelham*’.⁷³ Now on the 19th of August 1802, Lord Pelham on his part, is setting out on this his expedition of discovery, bent upon ‘*finding out*’ (maugre all concealments) what steps have taken ‘by the Treasury’, i:e: by M^f Vansittart: the packet put by you as above into his Lordship’s hands, certifying that no steps at all had been taken by the Treasury other than

⁶⁹ See Psalm 58: 4–5.

⁷⁰ On 27 May 1799 Belgrave had introduced a Bill into the House of Commons for the suppression of Sunday newspapers, on the grounds that they had become ‘an additional weapon in the hands of infidelity’, but on 11 June 1799 the measure was defeated on its second reading.

⁷¹ William Porden (bap. 1755, d. 1822), architect, and Edward Boodle (c. 1750–1828), Attorney of 41 Lower Brook Street, respectively. Bentham reported to Nepean that, according to Boodle and Porden, the panopticon penitentiary plan would not have resulted in ‘any prejudice to the Grosvenor Estate’, and, according to Boodle, might even have proved beneficial: see Bentham to Nepean, 10 March 1800, *Correspondence (CW)*, vi. 263–4.

⁷² The allusion is to Portland.

⁷³ See Vansittart to Bentham, 10 September 1801, *Correspondence (CW)*, vi. 446.

those exhibited by it, and the motionless state of the business being the declared cause why he was then troubled with it.

All this while, within a stone's throw of both these Ministers, whose efforts to find one another out, at the distance of the two contiguous floors of the same house, had for a twelvemonth been so unavailing—in sight of them both, sat M^r (now Sir Evan) Nepean,⁷⁴ from whom both personages, and above both M^r Addington, were determined with equal resolution never to find out what steps to his (Sir Evan's) knowledge 'had been taken by the Treasury' (the former Treasury)⁷⁵ in the business—determined by this most coercive of all reasons—that he was the only man in office from whom they could be *apprehensive* of receiving any *true* account of it.

In a copy I sent of this letter of M^r Vansittart's among other papers in Dec^r last to M^r Wilberforce, I find a comment which accompanied it in pencil, in these words. 'When M^r Wilberforce spoke on the subject to Lord Pelham, neither M^r Vansittart, nor either of the M^r Addington's, had had any such opportunity. They knew better things. They did not intend to have it: they durst not have it to any purpose.'⁷⁶

[120–016^{r1}]

To return to his Lordship's letter. The point I looked to in it, was—whether, amidst so much guilt—by the former people, amidst accusations upon accusations, never yet denied—frequently, though always in the view of adding to it, even confessed—any symptoms were to be found, of those regrets, which, in his situation, a man who meant honestly and really intended to turn over a new leaf, would, in my view of the matter, not dissemble. Finding no such indications, my exertions—(I mean in the line spoken of in my former letters) far from being relaxed, will be quickened, by the intended opiate.

One thing I understand pretty distinctly: *dates* are to me a sufficient proof of it. It is after taking a week to hear,⁷⁷ and hearing accordingly, and from the Treasury, not only

⁷⁴ Nepean had been created Baronet on 10 July 1802.

⁷⁵ i.e. under the former administration of Pitt.

⁷⁶ For Wilberforce's conversation with Pelham see p. 000 & n. below.

⁷⁷ In the copy of the letter at BL Add. MS 33,543, fos. 593–6, Bentham has noted at this point: 'My letter was sent him to his house in Town 12 Aug. 180<2.> His letter, to Sir C. Bunbury, is date<d> 19th Aug.' Bunbury

what steps have been taken, but what steps (under providence) will be taken, that he is setting out upon his expedition, to that unknown and distant clime, for the discovery of the facts that have been in his pocket for these six weeks.⁷⁸ In this circumstance my little mind, even ‘*in the present state of it*’, reads the present state of two great ones.⁷⁹ I see terror enough in both places—not yet enough indeed to open either of them like the little one to fearless honesty, but however to drive gentlemen upon this fresh and *speaking* attempt at evasion, instead of their former *silence*. I see enough to put them upon employing the time they think they have thus gained—upon employing it, and even in good earnest—in holding councils of war about the job with those from whom they received it, and in those councils considering which of the two repugnant engagements it were best to break definitively—(the original legal engagement, or the last in the succession of illegal ones):⁸⁰ and in the former event (being the most probable one) by what kind of botchery the breach may be best cobbled. It is to this that his Lordship’s mind is ‘*at all events*’ to ‘*apply*’ *itself*: for if it had at any more straitforward—any less crooked object—what should have hindered its applying itself to it near a *twelvemonth* ago,⁸¹ upon the spur of those impressions which even then it found its convenience in pretending to have [120–016^{v1}] received? what *has* it been applying itself to all this while? what is it *now* applying itself to? What was it put for where it is? What did it take the sceptre for from King Log? Was it to give him a King Stump for Successor?⁸²

In November last at the latest (how much earlier I know not) Lord Pelham thought New South Wales a bad thing—he thought the Penitentiary plan a good thing.⁸³ At that

had forward Bentham’s letter to Pelham on 12 August 1802 (see p. 000 above), and Pelham had responded on 19 August 1802 (see p. 000 above).

⁷⁸ Presumably since Bunbury had sent Pelham the papers that Bentham had asked him to forward in N^o 2, p. 000 above.

⁷⁹ In the draft of the letter at BL Add. MS 33,543, fos. 609–10, Bentham identifies the ‘two great’ minds as Pelham and Addington.

⁸⁰ i.e. the Penitentiary Act of 1794 or the promise made to Belgrave respectively.

⁸¹ In the copy of the letter at BL Add. MS 33,543, fos. 593–6, Bentham has noted at this point: ‘Dec^r or Nov^r 1801. M^r Wilberforce, as he told me in Dec^r had been speaking to L^d Pelham, by whom the sentiments expressed were favourable.’ For Bentham’s contact with Wilberforce in early December 1801 see *Correspondence (CW)*, vi. 460–1, 462–4.

⁸² In Aesop’s fable, when the frogs complained to Zeus of the inactivity of the log he had sent them as a king, he then sent them a stork, which ate them all up.

⁸³ Presumably when he had his conversation with Wilberforce.

same time he knew (for all his industry could not prevent him from knowing) that it was his duty to see to the carrying of that good thing into effect, without a moment's further delay; and that every day lost to it was not only a day of fraud, corruption and injustice, but a day of contempt & disobedience to Parliament. And now it is, that at the end of nine months from that time, after promise upon promise, and neglect upon neglect, and after receiving papers upon papers, the object of which was to render it no longer practicable for him not to know what he could not but know already—now, when the post of neglect and ignorance is no longer tenable—now it is at last that he is to '*apply his mind*' to the subject, under the *declared* apprehension, that any '*hopes*' that might be entertained of seeing his Majesty's Secretary of State, and the First Lord of his Majesty's Treasury, do their duty, might prove '*false*' ones!

One thing I should be glad to know, as to the 'present state' of that same noble mind. Is it out of doubt with him, or is it not yet out of doubt, that there is no such virtue in New South Wales as to quash an imperative law of Parliament, and to rescind the engagements taken in regard to Panopticon in consequence? In the former case, why does he not come forward with his declared support immediately? In the other case, why did he not call upon me for the *proffered* papers,⁸⁴ the object of which was to put an end to all doubts? I mean always to all pretences of such doubts? My calculation was—that, for appearance sake at least, his Lordship [120–016^{r2}] might wish to have it supposed, that it was by considerations relative to the *merits*, that his suffrage, if favourable to Panopticon, had been gained: that accordingly he would either read, or make as if he had read, those papers: but in this you see already one article in my apprehended budget of 'false hopes'.

If, instead of wavering between corruption and incorruption, and to hide his indecision, pretending to be going upon sham errands, while he was sounding the ground and looking out for loop-holes—if, instead of this, he had decided manfully, and taken at once the post of duty, a letter still shorter than even this short one might have sufficed. There lies the engagement of his predecessor for the 2,000 Prisoners:⁸⁵ there lies the Memorial (I mean the *suppressed* one you put into his hands) expressive of the *terms*

⁸⁴ i.e. the text corresponding to the marginal contents in N^{os} 12–13, pp. 000 below, and which was to be printed as the first of the 'Letters to Lord Pelham'.

⁸⁵ See Long to Bentham, 25 March 1800, *Correspondence (CW)*, vi. 279, stating that the Lords Commissioners of the Treasury had agreed that the proposed panopticon penitentiary should accommodate 2,000 convicts.

grounded on that engagement:⁸⁶ those very terms to which the approbation of M^r Long had been whispered over and again to M^r Nepean, under the determination of not granting either *those* terms or any *other*.⁸⁷ To send this Memorial to the Treasury, with a letter urging compliance with the prayer of it, was and is the one thing needful on his Lordship's part. I mean officially, and in black and white: verbal explanations might have been sufficient for the rest. This was exactly the course taken in 1794 by M^r Dundas,⁸⁸ to wash his hands of the corruption he saw even then going on between M^r Pitt, and the first of the titled subscribers to his statue.⁸⁹ Think not however that I mean this as a judgment altogether peremptory upon his Lordship's honesty: but you see that if the badness of these 'very worst effects' depends upon the sanguineness of my hopes, nothing very serious is to be apprehended. I shall be upon the look out for you at the time you have the goodness to mention. By that time sincerity will have been manifested or disproved. More could not be done by man than you have done. You see I have scarce left myself room to thank you for it, or to stamp upon my gratitude the mark of

Jeremy Bentham.

[120–016^{v2}]

P.S. My confidence about the grand globe of compression spoken of in my last,⁹⁰ has

⁸⁶ i.e. the 'Armed Memorial': see p. 000 n. above.

⁸⁷ In material written for 'Picture of the Treasury' at UC cxxi. 135–6 (23 February 1802), in relation to a meeting between Long, White, Nepean, and Bentham himself on 10 June 1800, Bentham claims that Long's strategy had been to pretend to Nepean that he had no objection to the 'substance' of the 'Armed Memorial'.

⁸⁸ On 31 October 1794 Bentham had sent a memorial to Henry Dundas (1742–1811), first Viscount Melville, Home Secretary 1791–4, Secretary for War, 1794–1801, First Lord of the Admiralty 1804–5, and on either 1 or 2 November 1794, according to Bentham's docket, Dundas had forwarded it to the Treasury: see Bentham to Dundas, 31 October 1794, *Correspondence (CW)*, v. 99 & n.

⁸⁹ Spencer's was the first titled name to appear in a list of subscribers for the erection in the City of London of a statue of Pitt dated 3 May 1811 and which appeared in *The Times*, 11 May 1802. In the event, the project was halted by Pitt.

⁹⁰ In the copy of the letter at BL Add. MS 33,543, fos. 593–6, Bentham has noted at this point: 'The Praemunire under the *Habeas Corpus* Act.' According to the Habeas Corpus Act of 1679 (31 Car. II, c. 2, § 12), it was declared illegal to send any subject of the realm a prisoner into parts overseas subject to the penalties ordained under the Statute of Praemunire of 1393 (16 Ric II, c. 5). Bentham perhaps had in mind his letter to Bunbury of 9 August 1802, pp. 000 above, rather than his last letter of 11 August 1802, pp. 000 above.

received—and in the amplest manner—the confirmation hinted at.⁹¹ *Impeachment* is a popgun to it. I have sent my homage to Lord Pelham in the shape of three Russia-bound volumes:⁹² but of MS not a syllable.

Please insert short rule.

At my last conference with Sir Charles Bunbury (it was at his house in Pall Mall 11th August 1802) he had the goodness to make a spontaneous apology for his inaction, from the time when the business went before the Committee of Finance, to the time of the change in Administration.⁹³ He mentioned the resentment of Mess^{rs} Pitt and Rose at the change they had found it necessary to make in a tax bill at his instance,⁹⁴ as a bar set up in two such implacable minds to the success of any exertions he could have made: and he added, that impressed as he was with the idea of M^r H. Thornton's influence over M^r Pitt, when (as he thought) he saw the business in M^r Thornton's hands, he looked upon the success of it as a matter of course.⁹⁵

Please insert short rule.

[120–017^r]

⁹¹ Bentham appears to have sent a copy of 'The True Bastile' (the original title for 'Plea for the Constitution', pp. 000 below) to Romilly (see Bentham to Dumont, 29 August 1802, *Correspondence (CW)*, vii. 96, which Romilly had returned to Bentham on 28 August 1802, with the comment: 'What you state respecting Botany Bay has very much astonished me. It has the more astonished me because I take the law upon the subject to be exactly as you have stated it.' See Romilly to Bentham, 28 August 1802, *ibid.* 92.

⁹² i.e. volumes bound in Russian leather. The 'homage' in question perhaps consisted of 'Panopticon; or, the Inspection-House', which had been printed in three volumes in 1791.

⁹³ i.e. between June 1798, when the Twenty-Eight Report of the Finance Committee was printed and the resignation of Pitt and appointment of Addington as leader of the administration in March 1801.

⁹⁴ In a campaign begun on 22 December 1797 and culminating in a vote in the House of Commons on 25 June 1798, Bunbury had, despite opposition from Pitt, secured the exemption of market carts from taxation under the Duty on Taxed Carts Act of 1798 (38 Geo. III, c. 93): see *Parliamentary Register* (1797) iv. 504; (1798) ii. 79, 160–1, 671, 728–9.

⁹⁵ Henry Thornton (1760–1815), banker, political economist, and philanthropist, MP for Southwark 1782–1815, as a member of the House of Commons Select Committee on Finance, had actively supported the panopticon penitentiary scheme: see Thornton to Bentham, n.d. March 1798, 27 June 1798 (two letters), *Correspondence (CW)*, vi. 18, 47–9.

Title in case of impression.

Panopticon versus New South Wales: containing a comparative view of the Penitentiary system and the new penal Colonization system in respect of their subserviency to the several ends of penal justice: in a letter to Lord Pelham &c. to which may perhaps be subjoined some observations on Colonies in general.

Introductory Note—private to Lord P. The sheets now detached, were written in the course of a Narrative, which though at its outset destined to be submitted in the way of private communication, to the Noble Lord to whom it is addressed, became in its progress too voluminous for manuscript. In case of publication, a word or two, to do away the abruptness of the commencement, would be prefixed of course.

The *three* other of the *four* grounds of ‘*relinquishment*’ of which *this* makes the *fourth* were 1. Lapse of time. 2. Encrease of terms (Panopticon.) 3. Improvement in existing Prisons. {This fourth: being the ‘improved state of the Colony’ of New South Wales.} The documents in which the disposition to ‘relinquishment’ is manifested, are those printed in ‘Further Proceedings of the Treasury’ 12th June 1801.⁹⁷ Not long after, the

⁹⁶ The original letter, at Pelham MSS, BL Add MS 33,109, fo. 332, is reproduced in *Correspondence (CW)*, vii. 74–5. Together with N^{os} 13–14, pp. 000 below, it was sent by Bentham to Bunbury on 9 August 1802, and forwarded by him to Pelham on 12 August 1802: see p. 000 above.

⁹⁷ ‘Copy of Treasury Minute, of the 13th August 1800’, a letter from Long to King of 25 August 1800, a letter from King to Long in response of 17 March 1801, ‘Copy of Treasury Minute of 18th of March 1801’, and the letter from Long to Bentham of 24 March 1801, appeared under the heading of ‘28th Report—Penitentiary Establishment’, in ‘Further Proceedings of the Lords Commissioners of His Majesty’s Treasury, &c. respecting the matters stated in the Reports of the Committee of Finance, so far as they relate to the several offices concerned in the Receipt and Expenditure of the Public Money .^.^’. Ordered to be printed 12th June 1801’, *Commons Sessional Papers* (1801) cxviii. 585–7. In the Treasury Minute of 18 March 1801, it was stated that the Lords Commissioners of the Treasury were of opinion that it ‘would not be expedient to carry into Effect this Plan to the whole Extent proposed by Mr. Bentham’, on account of ‘the Number of Years which have elapsed since the first Steps were taken, with a View to the adoption of any Plan of this Kind, and the Variation of Circumstances which have occurred during that Period; the improved State of the Colony of New South Wales .^.^’. as well as the various Improvements which have since taken place in the different Gaols of this Kingdom; and the great Increase of Terms which Mr. Bentham now proposes; are of Opinion that it would not be expedient to carry into Effect this Plan to the whole Extent proposed by Mr. Bentham. But they submit to his Grace [i.e. Portland], whether, by way of Experiment, it may be fit to carry

intention—the unchanging and unchangeable intention—of *establishment* instead of *relinquishment* was most vehemently asserted, in a conversation brought on by design, under the mask of accident, for the purpose of evading my demand of justice,⁹⁸ against suppressions having the effect of forgery, committed in support of insinuations so glaringly false that, though official, no man could be found bold enough to authenticate them with his name:—(‘See *Further Proceedings of Treasury 15th July 1800 p. 50*’)⁹⁹ an omission altogether unprecedented. The course taken for impressing me with the belief of an intention never entertained, was—the accusing me, with an air of affected peevishness, of *stupidity* for so much as doubting of it, or rather of *insincerity* for *pretending* to look upon it as dubious. But the utter falshood of those protestations was as fully known to me at the time, as it has since been abundantly confirmed by the event. The pretended intention of establishment upon a reduced scale, with compensation for the deficiency, was seen through at the instant.¹⁰⁰ The falshood of the protestation is established by those very declarations of the protestor’s own, which are in print,¹⁰¹ and which in the confusion of

it into Effect on a more limited Scale, or whether under all the Circumstances it may be adviseable, at the present Time, to relinquish the Plan altogether.’

⁹⁸ For Bentham’s account of his meeting with Hiley Addington and Long on 9 July 1801 see pp. 000 below,

⁹⁹ This reference, which appears in the margin of the Treasury Minute of 13 August 1800 as reproduced in *Commons Sessional Papers* (1801), cxviii. 585, is to an unsigned document dated ‘Treasury Chambers, 14th July 1800’, which appears under the heading of ‘28th Report—Penitentiary Establishment’, in ‘Further Proceedings of the Lords Commissioners of His Majesty’s Treasury, &c. respecting the matters stated in the Reports of the Committee of Finance, so far as they relate to the several offices concerned in the Receipt and Expenditure of the Public Money .^.^ Ordered to be printed 15th July 1800’, *Commons Sessional Papers* (1800) cxiv. 50, which noted that lands had been purchased at Tothill Fields for a penitentiary establishment, but that ‘the further Proceedings in the Business is delayed in consequence of Mr. Bentham having, on the 20th of June 1800, presented a new Statement and Memorial to the Board, differing materially as to the Terms on which he proposes to enter upon the Undertaking, from those which he formerly offered, which Statement and Memorial are now under the consideration of the Board’.

¹⁰⁰ In his letter to Bentham of 24 March 1801, Long, writing on behalf of the Lords Commissioners of the Treasury, had asked Bentham to ‘state under what Terms you are willing to contract for building a Penitentiary House for 500 Persons, and for maintaining the Convicts, if the Measure should be resolved upon; and if upon Consideration of that Proposal, the Plan should be relinquished altogether, my Lords desire you inform them what Compensation you conceive yourself entitled to for your Expenses and Loss of Time in preparing for the Undertaking’: see *Commons Sessional Papers*, (1801), cxviii. 81, and *Correspondence* (CW), vi. 382–3.

¹⁰¹ The ‘Treasury Minute of 18th of March 1801’, and the subsequent letter to Bentham of 24 March 1801, were printed in *Commons Sessional Papers*, (1801), cxviii. 81.

trembling guilt he had forgotten, together with every thing else that he had ever done, or read, or written, or said, in Parliament or elsewhere. The intention expressed in the documents is neither *relinquishment* nor *establishment*, but either the one or the other, to be determined by the computed convenience of each moment, according as fear of disgrace, or confidence of impunity, might happen to predominate.

[120–017^v]

The colours laid in this paper on the characters of *persons*, are such as had been forced into my hands, by the incidents related in preceding ones.¹⁰² Were this part to be printed separately, the passages bearing reference to these incidents might come to be omitted, modified, or enlarged, according to circumstances, such as the order in which each publication might happen to be presented itself &c. &c.

As to personalities, no statement of equal length was perhaps ever so completely *impersonalized*, as that given in my Evidence as printed in the 28th Report of the Committee on Finance 26th June 1798:¹⁰³ a complaint produced by a *then* no more than *four* years course of perfidy,¹⁰⁴ for a purpose too corrupt to have been ever defended, though too notorious to have been ever denied.¹⁰⁵ The only reward for the forbearance manifested under that injury having been the doubling the duration of it (for to this purpose the variegated mass of additional injury crowded into the same space is scarce worth mentioning) it is thus by necessity that I find myself impelled to hold men up to view individually, and by their names, lest, for want of a mark to fix upon, public indignation should spend itself upon the air without any use to justice.

Please insert short rule.

[120–018]

¹⁰² i.e. in ‘Picture of the Treasury’, from which the first ‘Letter to Lord Pelham’ was extracted: for further details see the Editorial Introduction, pp. 000 above.

¹⁰³ See p. 000 n. above.

¹⁰⁴ i.e. from the passing of the Penitentiary Act of 1794.

¹⁰⁵ i.e. the promise made to Spencer: see p. 000 & n. above.

Panopticon versus New South Wales Marginal Contents (not yet printed 9th August 1802)
in two Sheets. Sheet I.

Please reproduce the following text in two columns. Headings should be centred and rendered in bold.

I. Ends of penal justice the standard.

1. Of the four grounds that have been alledged this is the only remaining one upon which the 'relinquishment' has been attempted to be justified.

2. It supposes that 1. The New South Wales system is preferable to the Panopticon system.

3.—and to such a degree as to justify the relinquishment of the latter spite of all inconveniences of it breach of public faith included.

4. If the New South Wales system is preferable, it must be with reference to the five *ends* of punishment viz:

1. Example.
2. Reformation.
3. Incapacitation (for fresh offences).
4. Compensation.
5. Economy.

II. 1. Example.

1. Example. With reference to this end New South Wales does nothing: the whole scene being out of view.

¹⁰⁶ For the text corresponding to the marginal contents reproduced below see the first 'Letter to Lord Pelham', pp. 000 below.

2. Under the Panopticon system, exemplarity is at its *maximum*.

III. 2. Reformation.

I. General Principles.

1. New South Wales system—its radical inaptitude for reformation. Cause of the demand for reformation—a sort of morbid sensibility coupled with the want of *inspection* for the checking of it. Analogy between delinquents and persons of tender age or insane.

2. Under the New South Wales system, the power of *inspection* is at its *minimum*. No check to any forbidden practice or propensity: viz—

1. Sloth.
2. Drunkenness.
3. Gaming.
4. Venereal irregularities.
5. Profaneness.
6. Quarrelsomeness.
7. Mischievousness.
8. Rapacity.
9. Improvidence.
10. Prodigality.

3. Under the Panopticon system, at its maximum: scarce one of the ten is *possible*.

4. Instead of *extra-inspection*, it was thought fit to send out an ordinary assortment of such instruments of *reformation*, dead and living, as are looked upon as sufficient in *ordinary* situations.

4.^(a) Of Priests if useful there should be one to each distinct settlement (i:e: no individual should be settled any where but within a short walk's distance of a Church) whereas there was scarce one to five.

Also one to each Religion. There was none to 887 Persons in Norfolk Island for ^{^^^} years.

5. Cause of the indifference to all effectual means:—being sent purposely out of *sight*, their dependence was on this being out of *mind*: viz: the public mind.

6. Under the Panopticon system, the inspective and reformative power could not but be applied and to the greatest possible advantage.

II. Experience, per Collins.

7. The badness, absolute as well as comparative, of the New South Wales system, being thus deduced from *theory*, follows the confirmation of it from *experience*.

8. Chief evidence, its professed advocate, the Judge Advocate. The determined suppression of other documents is thereby rendered useless.

9. Preface shewing his disposition to put the best face upon the system that truth would permitt.

10. Care taken here, to avoid misrepresenting his evidence.

11. According to him, down to September 1796 worthlessness was at the *highest pitch*, and *universal*; with scarce one exception in a hundred or more.

12. But, the longer they have had the effect of the New South Wales discipline, and the more they are out of the way of *inspection*, they are by much the worse.

12.^(a) Passages in proof of both propositions.

13. Further evidence relative to *incapacitation &c.* and *economy* will be exhibited under those heads.

III. Later experience.

14. State of the Colony in respect of reformation at subsequent periods according to general results from other evidence entitled to particular confidence.

15. 1. 20th May 1799 from Governor Hunter.

16. From that evidence reformation appears hopeless—depending on a condition

repugnant to the end of the institution viz: the not sending thither the worst disposed.

16.^(a) Passages in Collins speaking of the necessity and absence of inspection.

17. 2. 7th Oct^r 1800 from the Lady of the commanding officer.

18. Carelessness &c of the Duke of Portland and M^r King &c. of the rising generation in their '*improved Colony.*'

19. While Lord Belgrave was 'propagating the Gospel' the above, for his accommodation, were in conspiracy with M^r Pitt &c. propagating immorality in New South Wales.

IV. Contra in Old Colonies.

20. Objection from experience answered. Have not Colonies proved conducive to reformation? Yes: but not *such* Colonies. Efficient causes of this property in the old Colonies—

1. Community, *ready formed.*

2. The great majority, *thrifty.*

3. *Employer*, ready—

4.—a man of *thrift.*

5. *Neighbours*, ready to join against a fugitive or refractory bondsman.

6. The *bondsmen*, in small proportion and dispersed.

7. *Masters*, *engaged* by interest to reform them.

8. A thrifty community to *settle in*, *after* emancipation:—

21. Not these circumstances but the opposite ones were, and are, *inherent* in the New South Wales system.

21.^(a) Quotations. References to Collins, as to the *Natives.*

22. These obstacles to reformation are irremovable. A majority of shifty settlers being hopeless for many generations, for want of *security* as well as *sources of profit.*

23. The exertions made under these circumstances by Administration to inveigle honest settlers are a cruel fraud. Reference to Economy for proofs.

IV. 3. Incapacitation

I. This the sole real end.

1. Incapacitation by mere distance, without reformation, seems to have been the only real object in this choice.

2. Misbehaviour, the result of *non-reformation*, not being regarded, so as it was out of Britain & *unseen*.

3. The contrivance was in every instance either unjust or inefficacious.

II. Injustice of the design.

4. 1. Injustice of the expedient.

Historical sketch.—Since the Restoration, transportation to the American Colonies has been coming into use; and has been marked out, in lots of *different* lengths, with great apparent care.

5. The Penitentiary Act of 1779 affords an eminent example of this care.

6. To America, transportation had partly fulfilled the objects of punishment, partly failed.

7. Reformation being difficult, and incapacitation by local exclusion appearing easy, when a fresh spot was to be looked out for, New South Wales recommended itself on the score of *distance*.

8. *Distance* was the only circumstance that *could* have recommended it.

9. In idea, the expedient was a *simple* one.

10. But the *effects*, on the system of transportation punishment, as laid down in so many laws, were extremely *complicated*.

11. In an oblique way (which will be delineated presently) the punishment in almost all cases of transportation underwent an *encrease* prodigious and *unprecedented*.

12. In the almost obsolete practice with regard to *mayhem*, damages found by the Jury may be increased by the Judge—but the benefit goes to the party injured.

13. In the case of *pardon*, executive rigour is made to fall *short* of that of the law—in no other case to stretch *beyond* the law, as here.

14. It is no justification to say the *right* of return remains—since the physical power is taken away or meant to be taken away, more especially than it could be even by taking away the right.

15. The existing law of transportation *is* as much broke in upon, as the law against *murder* would be, by throwing a man into a dungeon and leaving him to starve.

16. The mode of producing the effect was particularly objectionable as well as the effect produced.

The alteration would have been unjust, though it had been made *regularly* by Parliament.

17. But it was made by a deceit put upon Parliament:—powers given, for the purpose of *continuing* transportation on its *former* footing, being applied to the putting it upon a quite *different* footing.

18. Even in the Act of 1787 in which New South Wales was mentioned, there was another deceit on Parliament, which will be laid open elsewhere.

19. The punishments being still, by the tenor of the several laws, of *different* lengths, while in *effect* they were to be all of *one length*—viz: perpetual—hence a continual (though unheeded) mockery of justice on the part of Parliament as well as Judges.

20. With respect to Convicts already under sentence, the extension had all the iniquity of an *ex post facto* law.

21. Pernicious example set by this perfidy on the part of Pitt Rose &c. Indication afforded by it of the perfidy exemplified afterwards in the dealings of the same persons in respect of Panopticon.

22. If but a month were to be added by direct order to Hulk confinement here at home, what a sensation in the public mind!

23. Though the *bondage* may not have been thus meant to be made perpetual, yet the *banishment was*—which is the only part of the punishment expressly warranted by law.

III. Inefficacy.

24. Though the banishment was intended by the contrivers of the system to be perpetual, the intention has succeeded but imperfectly. A considerable number *return*.—

25.—worse corrupted by the discipline of New South Wales.

End double columns. Please add short rule.

[120–019]

N° 14.¹⁰⁷

Panopticon versus New South Wales Marginal Contents (not yet printed 9th August 1802)
in two Sheets. Sheet 2.

Please reproduce the following text in two columns. Headings should be centred and rendered in bold.

IV. 3. Incapacitation.

III. Inefficacy.

26. While the *injustice* is *compleat*, the *benefit* expected from it is thereby *incompleat*.

26.^(a) Quotations.

1. No care taken at home for 4½ years to prevent *unlawful* returns—care taken *then* to prevent *lawful* ones.
2. Returns without permission *easy*: return, not settlement, the general object.

¹⁰⁷ For the text corresponding to the marginal contents reproduced below see the first ‘Letter to Lord Pelham’, pp. 000 below.

3. Table of returns from Collins.

27. The use of the place, and the security afforded by it in this respect, grows less and less as the Colony is in other respects more and more '*improved*'.

27.^(a) Though the employing King's ships exclusively (ex. gr. the Glatton) will diminish the facility, it will not put an end to it while any private ships are admitted.

28. It is to the most pernicious and dangerous characters, that *escape* to England is easiest—

1. the opulent receiver.

2. the enterprising burglarer &c.

IV. Panopticon *contra*.

29. Panopticon system—*During* the penal *term*, its efficacy, under the head of incapacitation, is at a *maximum*.

30. Thenceforward, instead of *incapacitation*, its reliance is upon *reformation*.

31. The extreme oppositeness to New South Wales in every point of view on which reformation depends—

1. Absence of drunkenness and gaming &c. total.

2. Religious exercise constant.

3. After the term of punishment, eligible employment certain v. *supra*.

32. In case of a *second* offence Panopticon for life would incapacitate for any *third*.

V. Dernier resort, Inspection.

33. In New South Wales, necessity drove men to an application, however imperfect, of the *Inspection* principle.

34. The Governor *there*, having more power than Parliament has *here*, built a general Jail for that island; which was what Parliament attempted in vain to do for this.

35. In a society, thus corrupted by the original principle of its institution, the tutelary

principle of *inspection* was found necessary to be applied even to the *Soldiery*.

VI. Surest resource Death.

36. *Death*, a particular mode of *incapacitation*, in respect of which the efficiency of the New South Wales system was preeminent. In the voyage they were more than *decimated*.

37. The fault lay not in the Contractors but in Pitt and C^o by their incapacity and inhuman negligence—their bad management, making a bad system worse.

38. Causes of the mortality—

1. Length of the Voyage.

2. Want of interest on the part of the Contractors in the preservation of the lives of the Cargo.

39. Neither of these causes of mortality had place even in the old transportation system.

40. In the Panopticon system, the opposite causes of security are at the *maximum*.

41. Struggles which it cost the author to preserve to this article its place in the *Contract*; notwithstanding the consent given to it in the *Proposal*.

V. 4. Compensation.

1. Fourth object, *compensation* or *satisfaction*: viz: for the damage by the offence, for which the punishment of transportation was inflicted.

This, though it *ought to be* among the ends of penal justice, *is not* under the English law in the case of transportable offences.

2. Cause of this omission. The profit to the King by forfeiture was the only direct object of penal justice under the feudal barbarism.

3. Feelings, opinions, and labours of the author on this subject.

4. His plan for introducing the principle into penal legislation at his own expence. His struggle with the Treasury to keep the article for that purpose in the *Contract*.

10.—which is the exact double of Panopticon expence, as enhanced by Pitt and perfidy; and near treble, if unenhanced.

11. Combined view of the *economy, morality, & logic* displayed in the conduct of the Treasury in the relinquishment of Panopticon, compared with the support given to New South Wales.

12. Economy was the stronghold and was to make up for all deficiencies in respect of the four direct ends of punishment.

13. M^r *Rose*'s sentiments appealed to, on the regard due to 'arithmetic and its calculations'—Pamphlet on the Civil List. 1802.

14. *Panopticon* expence *cessation* certain—the duration reduced already by the manufactured lapse of time: i:e: by waste of J & S.B.'s lives.

III. Prospect of Encrease.

15. Per contra, chance of encrease on the Military and Naval Establishments.

16. Demand for fresh force as stated in the Lady's letter—

17. In two paragraphs.

17.^(a) Bell's paper 3rd January 1800.

18. The expence will not be capable of being concealed, by any such contrivance as that of throwing it upon a wrong fund, as in the case of Prisons.

☞ This was the contrivance of the D. of Portland as stated in his letter to the Treasury 14th Oct^r 1799 throwing it upon the Poor-Rates by his own authority instead of the General Fund assigned by Parliament.

☞ To conclude with an examination of the supposed possible utilities of New South Wales in the character of a *Colony*: introduced by remarks relative to the general question of the utility of Colonies:¹⁰⁸ to which may be subjoined an unpublished tract on that

¹⁰⁸ See the continuation of the first 'Letter to Lord Pelham', pp. 000 below.

subject.¹⁰⁹

Please add short rule.

[121-333]

Relation of what passed at the interview alluded to in ¹⁰⁹ the Introductory Note to *Panopticon Versus N.S. Wales:*¹¹⁰ or so much of it as is material {to the present purpose.}

On the 27th of June 1801 I sent the letter {A.5.} addressed to M^r Hiley Addington,¹¹¹ and having for its object, {the obtaining} redress for the injury done to me, by the charging me with a departure from my terms:¹¹² such departure being made a professed ground for the relinquishment of the Penitentiary Establishment: and by the suppression of the Documents which would have shewn the groundlessness of that charge.

Had the request made by this application¹¹³ been acceded to within a few days after it was made, the Session was not yet so far elapsed¹¹⁴ but that there might have been time for supplying the omission, and thereby making reparation for the injury.

No answer to that letter ever came to me from M^r H. Addington to whom it was addressed, or any body else.

¹⁰⁹ Bentham did not, in the event, subjoin his unpublished pamphlet, namely ‘Jeremy Bentham to the National Convention of France’ (originally printed in January 1793 and later published as *Emancipate Your Colonies!*, London, 1830), reproduced in *Rights, Representation, and Reform: Nonsense upon Stilts and other writings on the French Revolution*, ed. P. Schofield, C. Pease-Watkin, and C. Blamires, Oxford, 2002 (CW), 291–315.

¹¹⁰ The interview, which took place on 9 July 1801, is alluded to in the ‘private note’ to Pelham, N^o 12, p. 000 above.

¹¹¹ See *Correspondence* (CW), vi. 403–8. The reference A. 5. refers to the number given to the letter in ‘Picture of the Treasury’.

¹¹² In the margin, Bentham has noted at this point: ‘Anonymous communication as from the Treasury.’ For this document see p. 000 n. above. Bentham’s point was that the additional expense of the panopticon penitentiary had resulted from the instruction to double the number of convicts (see p. 000 n. above), and that the rise in prices between 1794 and 1800 had increased its nominal cost but not its real cost, yet this had been represented as an increase in his terms.

¹¹³ i.e. that the suppressed documents be printed.

¹¹⁴ The Parliamentary session ended on 2 July 1801.

On the 7th of July, however, having with M^r Vansittart, the other Secretary of the Treasury, an intercourse by letter on a subject no wise connected with this, I received a note from M^r Vansittart, appointing me to call on him at the Treasury at ½ past 10 on the then next Thursday, being July the 9th 1801.¹¹⁵

[121-334]

Thursday 9th of July 1801, I attended accordingly. The person of M^r Vansittart was as yet unknown to me: whether mine was so to him or no, I know not. Being earlier than he at the Treasury, in one of my habitual walks to & fro in the passages a little before 10, I met a person whom afterwards I recognized for him. I took the earliest opportunity of apprizing several of the Attendants about the office of my being there, waiting by appointment to be introduced to M^r Vansittart: giving in to one of them my name on paper or card as usual. In the course of it might be an hour, I observed the other late Secretary of the Treasury M^r Long going into the apartment of M^r Hiley Addington. I took notice of an appearance of alarm and anxiety upon his countenance. I waited upwards of two hours or perhaps three: having learnt that M^r Vansittart had been there since eleven or earlier, and wondering that no notice should be taken of me, M^r Long and M^r Hiley Addington had been together it may be an hour or an hour and a half—when a message was brought out to me in one of the passages that M^r Hiley Addington was ready for me, and wished to see me. I had never enquired for M^r Hiley Addington, but as he had sent out a message expressive of his desire to see me, I could do no otherwise than comply with it. I found with him M^r Long, in whose countenance I remarked the same anxious appearance of gravity, sadness and anxiety. It gave me concern to see him; because recollecting that the purport of the unanswered application to M^r H. Addington went to convey imputations very seriously and prejudicial, though to my conception not injurious, to the character of the [121-335] Ex-Secretary, and that it appeared that every thing that in this forced conference should pass between M^r H. Addington and myself was designed to pass in the presence of M^r Long, the summons seemed to have no other object than the producing between myself and M^r Long a sort of altercation for which they had prepared themselves, but which to me was matter of extreme surprize and, to my apprehension, of no possible good use.

The conversation began on the part of M^r H. Addington by an observation directed to

¹¹⁵ For Bentham's meeting with Vansittart, presumably to discuss his annuity note scheme, see p. 000 n. above.

me.

M^r H. Addington. Why, M^r Bentham, you are extremely impatient—very impatient indeed!

M^r Bentham. Impatient, Sir? I really know not what your meaning is—there must be some mistake in this. I never asked for you: it was you asked for me. It was M^r Vansittart and him only that I asked for—and that only because I had received from him a spontaneous note, desiring me to call upon him here. I have been here these 2 or 3 hours. With your leave, I will go to him now: my fear is that he has never heard of my having asked for him: while we are speaking, he may be thinking that I have broken my appointment and neglected him.

No, this could not be: M^r Vansittart was just then engaged: and since I was there something might be said in relation to my letter.¹¹⁶ But so satisfied was the Honourable Gentleman with the part that had just been put into his hand, the charge of impatience was still harped upon, over and over, just as if there had been a ground for it. How stood the fact in regard to impatience? I had waited for my answer from him already till the time for doing any thing upon it was past. I had written nothing.¹¹⁷ I had said nothing—I had done nothing: a dead man or a stone could not have been more patient: and for this patience, what was my reward? a repeated reprimand from the gentleman thus new in authority and for my impatience.

I was all astonishment to think to what further frauds this strange self-betraying bootless fraud could be a preface.

[121-336]

Finding there was no retreat, I prepared myself in the midst of my astonishment for the combat which I saw already had been prepared for me. M^r Long, whom I had not seen for above a twelvemonth—who for weeks or months had fled from me—and who, when at

¹¹⁶ i.e. Bentham's letter to Hiley Addington of 27 June 1801.

¹¹⁷ Bentham had, in fact, written to Hiley Addington on 6 July 1801 asking whether he had it in mind to answer his letter of 27 June 1801 (see *Correspondence (CW)*, vi. 411), though this was after the end of the Parliamentary session.

last I caught him, had expressly forbidden my attempting to see him any more,¹¹⁸ this same M^r Long had now, I presumed, planned to catch me by surprize with a gentleman as closely linked to him, as strange to me, for his support.¹¹⁹ All decorums being, as it appeared to me, cast off—I determined to avail myself of the opportunity of establishing, as well as I could hope to do by the testimony [of] a most partial and naturally unwilling [witness],¹²⁰ two or three points which I had much at heart.

M^r Bentham. Well Sir (to M^r Long), and was it then to meet me that you have been stationed here for such a length of time? This is indeed an honour as unexpected as it is new: an honour I have not had for above this twelvemonth, refused me for months together by acts and at length by express words?

The answer consisted in denying the fact and in the same breath admitting it, saying that it was for my own advantage that he desired a Memorial of me, that I might be at a certainty and so forth. N.B. In driving me from his presence, and without provocation or pretence of provocation refusing to see me any more, he had indeed said to me, Give in a Memorial, but had refused to tell me, either then or at any subsequent time, what was to be the purport or so much as the object of it.¹²¹

[121-337]

M^r Bentham. Well, Sir—this is a point that may be better cleared up, when the time comes, by the evidence of M^r Nepean. For as it was the absolute impossibility of direct access to you that constituted the sole *real* cause of that application to him on my part

¹¹⁸ According to the account in ‘Picture of the Treasury’, UC cxxi. 89–91 (19 February 1802), in April 1800 Bentham had seized the opportunity to chase Long into his chambers at the Treasury to discuss Belgrave’s opposition to the panopticon, but found Long ‘impatient—confounded—agitated—Give in a Memorial—was his only answer—his answer in so many words. A Memorial? about what says I? What am I to say in it?— — —You know well enough—how can I tell?— — —You’ll see it first?—No—that he would not. You are engaged now—another time you will give me leave to attend you on the subject?—No—no—no:—was the answer—the answer, not in articulate words only but in the much more expressive and decisive language of tones and gestures. Another moment, and I should have been pushed out—I went out—and the door was clapt to in my face.’

¹¹⁹ i.e. Hiley Addington.

¹²⁰ MS ‘evidence’ appears to be a slip.

¹²¹ In consequence, Bentham had submitted his ‘Armed Memorial’ on 21 April 1800: see p. 000 n. above.

which produced the negotiation between him and you, so was it the *declared* one:¹²² and looking upon such a banishment as nether compatible with my own rights nor with your duties, and as requiring, were it only for the sake of my own character, a pretty explicit explanation as to the cause of it, I begged of him with no small earnestness to take the first opportunity of asking you in the most pointed terms, whether, in the course of the six years that I have been a suitor to your office, you yourself ever conceived yourself to have, on any score whatever, any the smallest reason to complain of me? To that question, Your answer, as repeated by him to me, was most explicitly in the negative. I now embrace this further opportunity of establishing that same point—and now in the presence of this gentleman, Your friend whom I understand to be M^r Hiley Addington, I beg leave to put the same question to you: meaning always to except the moment of this {to me very unexpected} interview, for that you should be altogether satisfied with every thing you have now been hearing from me is, I confess, rather beyond my hopes.

M^r Long's declaration to the above effect was thereupon as explicit, as according to M^r Nepean, it had before been to M^r Nepean.

[121-338]

From this point, by a line, the precise course of which I do not exactly recollect, the conversation was drawn, but not by me, to the subject of the Penitentiary Establishment, according to the reduced scale spoken of in the correspondence. I now perceived what was the ultimate object of the interview with which I had so unexpectedly been honoured. It was—to lead me to understand—as a thing decided upon from the first—that the establishment would be given to me upon the reduced scale of 500 instead of the originally stipulated 1,000, and the subsequently promised 2,000: and that, for the part defalcated, a sufficient compensation would be allowed to me. This being beyond any expectation held out by either the letter to myself¹²³ or the subsequently printed correspondence between the

¹²² Bentham had first sought the assistance of Nepean during September 1799 through Nepean's wife Margaret (d. 1833), when the Home Office had failed to inform him how many prisoners the panopticon penitentiary was to accommodate. Nepean had spoken to Long on the subject on 23 September 1799: see *Correspondence (CW)*, vi. 192–3, 201. For Nepean's arrangement of Bentham's subsequent meeting with Long and White on 10 June 1800 see p. 000 n. above.

¹²³ See Long to Bentham, 24 March 1801, *Correspondence (CW)*, vi. 382–3, asking Bentham, at the command of the Lords Commissioners of the Treasury, to state 'under what terms you are willing to Contract for building a Penitentiary House for *500 Persons*, and for maintaining the Convicts, if the measure should be

Treasury and the Secretary of State's Office,¹²⁴ I saw at once what was the object of the lure. It was to put me to sleep without the demanded satisfaction—the publication to be made by authority, the publication of the omitted documents.

To help reconcile me to so extraordinary a departure, from the terms acceded to six years before and acted upon ever since, the word *experiment* was introduced: it was to be *a measure of experiment*. Upon my observing, amongst other things, that it was a change not more reconcilable to the interests of my own character than to the principles of good faith, that a quantum of confidence which had so lately been doubled should be cut down all at once to half and without the smallest reason assignable or assigned—and that after the probation I had [121-339] undergone, and at my time of life, it was an humiliation I could not submit to, to see a measure held up for so many years as a definitive one converted in this way into a measure of experiment. I was asked what difference it could make to me, receiving as I should, of course, the most liberal compensation for every reduction that should be made.

My answer was—1. That I saw no reason whatsoever for saddling the public with any such burthen—that I did not choose to be made an instrument of burthen to the public in any shape:—that adequate compensation was, in the nature of the case, impossible: that the Treasury had not at that time any legal power for affording any on any such ground—that it did not appear to me that any good ground for any such expence could be made to Parliament: that, in company with the establishment, upon any scale howsoever reduced, the idea of compensation was altogether new to me—and that whatsoever might have been my willingness to accept of it, I had never descried the least appearance of any disposition to afford it to me.

Upon this, both gentlemen joined in expressions of astonishment, that for a moment I could suppose that any such reduction was not intended to be accompanied with compensation. Direct assurance was too weak a form for the expression of the original and unvaried determination taken on that topic. The precise words I do not recollect: but the

resolved upon: and if, upon consideration of that proposal, the plan should be relinquished altogether, my Lords desire *you will inform them* what compensation you conceive yourself entitled to for your expenses and Loss of Time in preparing for the Undertaking'.

¹²⁴ i.e. the letters from Long to King, 25 August 1800, and King to Long, 17 March 1801: see p. 000 n. above.

manner was magisterial and to the last degree emphatical. The idea was—that blindness—not to say wilful blindness—absurdity—perversity—were the causes of my not seeing if that were really true which was scarce credible, viz: that I did not see that, from the first to the last, no idea of reduction, unaccompanied with compensation, was ever [121-340] entertained. Upon turning to the documents, it will appear: 1. that no compensation even in any case was categorically promised to me: in the next place, that in the hypothetical discourse on that subject, it is to the case of entire relinquishment that the talk of compensation is confined:—confined by express words.

So far as above, I did say: what I did not say was that, of the two Honourable Gentlemen whose associated vehemence was thus joining in upbraiding me for unbelief, there was one at least who was confident in his own mind that no such prediction would be ever verified.¹²⁵

A fact which I know with as full assurance as evidence can give, was—that the sole cause of obstruction operating on the Treasury, was the promise of utter relinquishment, made, on the occasion I know of, to Lord Belgrave:¹²⁶ and the existence of the establishment upon any scale—original—augmented or reduced—was alike incompatible with that promise and the imaginations that had exacted it.

Accordingly in the letter to me¹²⁷—which, of all the manifestations that have since been made, was the only one that at that time had been ever intended to meet my eye, not even compensation for non-establishment—much less establishment—was promised. On both points I was called upon to give in my proposals, but in the evident view that neither of them (unless possibly some miserable pittance under the name of compensation) should be followed by any effect. Should any thing be found in them to cavil at, they were to be pronounced in express terms inadmissible. Should they be found impregnable on all points, they were to be answered of course, as so many other applications from the same quarter had been answered, by the habitual silence.

[121-341]

With the nature and habitual hardness of the place, artifice had now combined, in

¹²⁵ i.e. Long.

¹²⁶ See p. 000 n. above.

¹²⁷ i.e. Long's letter of 24 March 1801.

substituting, to that explicit and satisfactory assurance which good faith as well as humanity would have prescribed, a set of interrogatories which, instead of satisfaction, promised an addition to the injury. As M^r Palmer had by ill-usage been put off his guard, and by that means made to afford a pretence for breaking the public faith with him,¹²⁸ so was a pretence to be thus created for breaking it with me. But I flatter myself that, even without M^r Palmer, it neither has been nor ever will be a matter of much difficulty to be angry enough for their shame, and at the same time avoid sinning for their benefit. When any expressions of my anger come to be published, I am pretty well assured that the publication will come—not from any of the Honourable Gentlemen who have ever been the objects of that emotion, but from the person moved by it.

Though, as far as concerned the dupe principally intended, the stratagem completely failed, yet the rule I lay down in all cases of ascribing every act to the most honourable of the motives capable of accounting for it requires that I should regard M^r Hiley Addington, as the dupe of this contrivance rather than the accomplice. My notion is—that he had been made a real believer in the professed intention of carrying the establishment (meaning always upon the reduced scale) into effect. He had been prepared for doing his part towards the production of that effect. But the confidence was (and M^r Long had thus far done me justice) that what he had rendered impossible to accomplish, I should not be brought to undertake: but if, spite of probabilities, rashness should make this conquest over prudence, and the task of making bricks without straw should be embraced [121-342] by me, the sacred promise to Lord Belgrave would, at the critical moment, be found by M^r Hiley Addington and his associates an obstacle as unsurmountable as it had been made by and to M^r Long: and then the tyro administration would have the knot to cut as well as they could, with the assistance of the precedents that had been set to them, and such advice, if necessary, as might be afforded to them, by their veteran predecessors.

The seeds of perplexity were thus sown by M^r Long in the mind of his friend without

¹²⁸ John Palmer (1742–1818), theatre proprietor and postal reformer, MP for Bath 1801–8, had been involved in a long-running dispute with government over compensation for the postal reforms he had initiated, at his own expense but the on the basis of a verbal agreement with Pitt, in the 1780s, and over his suspension from the office of Surveyor and Comptroller-General of the Mails in 1793, and which culminated on 31 May 1799 in a vote in the House of Commons at which his claims were dismissed. He was eventually awarded compensation in 1813 (53 Geo. III, c. 157).

his knowledge: the fruit of them would not appear, if at all, till afterwards.

Intermixed with these specific propositions, some general ones had been agitated, between the two Secretaries on the one part and their Suitor, *malgré* [.^.^.?], on the other:¹²⁹ some general ones, in which the sentiments expressed were as wide as any two points that can be conceived. By me, two things were considered as binding upon gentlemen in administration: the law of the land, and their own engagements. But these claims (for such they were and have ever been to me) were by both gentlemen treated without disguise as cobwebs: and it is for the Painter, and not the Reporter, to convey any tolerably correct idea of the scorn and contempt that were poured out from both fountains upon the head of the ignorant bookworm, that could suppose it possible for gentlemen in their high stations to be bound by any thing but their own will and pleasure. As the specimen of a drunken slave was employ'd by Spartans as the most impressive lesson that could [be] given in the chapter of sobriety,¹³⁰ so if any exhibition could have the effect of implanting more deeply than another the love of the British Constitution in any wavering breast, I do think it would have been this scene. While I have breath, it will never be out of my eyes.

[121-343]

The idea of obligation was rejected plainly and simply: rejected as inapplicable not only to the case in hand, but to any other that could be supposed. In speaking of cobwebs, I fell short of the mark: Cobwebs, though an ineffectual resistance, might oppose resistance and annoyance: Acts of Parliament—engagements—were, I should not have said cobwebs, I should have said moonshine, to Secretaries of the Treasury and Secretaries of State. Were I inclined to exaggerate, all the hyperboles I could find or make would not enable me to exaggerate. In speaking of him who, over and over again and in a tone of disdain and scorn, disclaims all regard to laws—all regard to engagements—holds himself bound by neither—not denying the existence of either—how is it possible to exaggerate!

On this occasion, it would be an act of injustice to M^r Hiley Addington not to observe that his part in it seemed rather a subordinate one. The doctrines were laid down principally, if not exclusively, by M^r Long. Informant of the oracles, rather than invention,

¹²⁹ In relation to the remainder of the sentence, Bentham has noted: 'Alter.'

¹³⁰ See Plutarch (Lucius(?) Mestrius Plutarchus) (c. 50–c. 120), *Life of Lycurgus*, XXVIII. 4.

was the task of his new-entered successor. Being, from what judgment I could make in so short an interview, a good-natured man—his tone and manner were adapted to the more lenient part: the part of soothing and smoothing away, by a mixture of reproof and kindness, such obstinacy as mine. His words were as oil to the vinegar which I had been used to receive on the few, as few as possible, occasions, on which till now any thing could ever be squeezed out of the other [.^.^.?]. All the axioms, whether of politics or ethics, that had been laid down by this Anti-Fortiscue,¹³¹ about the nullity of parliaments—about the futility of the fancied distinction between absolute and limited monarchies—[121-344] about the exemption belonging to gentlemen in such high offices as touching moral obligations, were so many truisms to M^r Hiley Addington: but the notions seemed rather adopted in deference to such high authority, than brought out as the fruit of his own reflections and experience.

Every thing M^r Long came out with in the course of his apology (for, notwithstanding his acknowledged superiority to parliaments, he seemed to feel some sort of account of himself due from him in point of prudence to the friend and supporter at his elbow) plunged me still deeper and deeper in astonishment. Every thing that had not happened was asserted—every thing that had ever happened was denied *in globo*¹³²—for the purpose of the argument: and the argument ran about the compass like the wind in a hurricane: utter confusion was thick-painted on his pale countenance: but still the wonder was how such effusions could flow even from such a source. The Treasury were only Ministerial and had no choice: though every thing of choice is the work of an act—and the Treasury is the only authority by which any thing is to be done. The Treasury had no choice about the spot or any thing: though M^r Long and he alone was the very person by whom the spot in question was promised to me for my choice. All depended upon the Secretary of State: though, by the Secretary of State (M^r Dundas), a gentleman favourable to the plan, even to enthusiasm, I was turned over to the Treasury¹³³—that is to M^r Long's own because nothing could be done elsewhere. Whatever part he had ever taken in the business was so much beyond any part he had any need to take in it, and instead of accusing him as I did, I ought to be thankful for it: though by official duty he was bound to

¹³¹ An allusion to Sir John Fortescue (c. 1397–1479), justice and political theorist, whose work *De laudibus legum angliae* was celebrated as defence of constitutional liberty.

¹³² i.e. 'in the whole'.

¹³³ See p. 000 & n. above.

carry it into effect, and by treachery he had sacrificed his character and his conscience to the overthrow of it. He had never taken any part beyond necessity, any where, and in particular none in Parliament: whereas in a debate that took place in the House on the third reading of the Bill,¹³⁴ he had said more than any body on this subject, had defeated the Opposition, and with the air of a conquering hero had strode up and overtaken my Brother and me on our return from the Park home, reslaying the slain and resnuffing up the incense of our acknowledgements—for Lord Spencer’s will and pleasure on the subject was at the time understood to be favourable.

Pity the establishment was not set up at Battersea Rise: that was the proper place—the only proper place—but I was indifferent about it—and so that place was lost: whereas the Memorial by which I clung to it was rejected by himself as forcible and irrefragable beyond endurance, besides being snarled at in a letter¹³⁵ which I should think myself fortunate in having to produce against him, if it were not still easier[?] [121-345] to deny fleeting sounds uttered in presence of a most confidential friend, whose kind forgetfulness can not be less to be depended upon than his more active and more difficult assistance.

The Duke of Portland was ever and anon pointed to with distinct reverence, as the arbiter of life and death—the tapestry Solomon by whose awful sentence my devoted offspring was to be cut in two and sacrificed:¹³⁶ the Duke of Portland was pointed up to as that most puissant prince whose everchanging pleasure was at all times to have the vigor of law—a vigor beyond and contrary to the law of Parliament: the Duke of Portland’s pleasure, though at no time a law to itself, because incapable of binding itself, was to be law above Parliament and against me. Seeing day-light through the shade of this terrific spectre, to whom the warning cock had already begun to crow—but, says I, granting the present omnipotence of the existing Secretary of State, does not an equal omnipotence await his successor? May not Lord Pelham keep entire, what the Duke of Portland had [.^.^?] to rend in twain?—O, yes—the idea was caught at by all four hands, as the happiest

¹³⁴ The third reading of the Penitentiary Bill of 1794 took place in the House of Commons on 28 May 1794, but no record of the debate has been located.

¹³⁵ Bentham had submitted a Memorial asserting his right to acquire the site at Battersea Rise to Dundas on 16 August 1794, and had received a response from Long on 25 September 1794, including the return of the Memorial: see *Correspondence*, v. 54–69, 78–9

¹³⁶ See I Kings 3: 16–28.

échappatoire imaginable.