

LANDED TENURES OF PRINCE OF WALES' ISLAND

The purpose of this contribution is essentially to reproduce the text of the Minute written by the Honourable W.E. Phillips in 1823 on Landed Tenures of Prince of Wales' Island (as Penang was then officially known).

The East India Company's settlement on Penang was established in 1786 under the Superintendence of Captain Francis Light. The settlement was established as a result of negotiations between the East India Company and the then Sultan of Kedah. It is commonly asserted that as a result of those negotiations the island was ceded by the Sultan to the Company. Bonney, however, has convincingly shown that in fact no cession took place in 1786.¹ When in 1791 the Sultan failed in his attempt to invade Penang a further agreement was entered into between the Sultan and the Company, but the wording of this agreement is hardly consistent with the notion of cession. Yet a third agreement was entered into between the Company and the Sultan in 1800 on the occasion of the acquisition by the Company of the strip of land on the coast opposite Penang, known as Province Wellesley, but yet again it must be said that the wording of the agreement does not imply a transfer of sovereignty.² Nevertheless, when the First Charter of Justice was granted by the Crown in 1807, it is asserted in the preamble thereto that a cession had taken place, and that remained the assumption that was thereafter made by both the Company and the Crown.

Captain Light died in 1794 and after Philip Mannington and others had acted as Superintendent of the settlement Major Forbes Ross MacDonald was appointed as Superintendent and held office until 1799. In 1800 the status of the Penang administration was raised from that of a Superintendency to that of a Lieutenant-Governorship, and Sir George Leith was appointed the first Lieutenant-Governor. There came to Penang, with Sir George Leith in 1800, as his Secretary, W.E. Phillips, the writer of the attached Minute.

Phillips was born in 1769 and had gone to India in 1787. He saw active service with the 74th Regiment in which he reached the rank of Captain. He was sent to Penang as Secretary to Sir George Leith in 1800 because of his health.

Shortly after the establishment of the Lieutenant-Governorship, the first professional Judge and Magistrate, Mr. Dickens was appointed and he rapidly came into conflict with the Lieutenant-Governor and

¹ *Kedah 1771-1821* (1971).

² For the text of these agreements see Maxwell and Gibson, *Treaties and Engagements affecting the Malay States and Borneo* (1924) and Braddell, *The Law of the Straits Settlements* (2nd ed. 1931), Vol. I.

with W.E. Phillips, when the latter was acting Lieutenant-Governor during the absence of Sir George Leith on leave.

Sir George Leith was succeeded as Lieutenant-Governor by R.J. Farquhar³ who remained until 1805. During Farquhar's Lieutenant-Governorship Phillips retained his position as Secretary to the Lieutenant-Governor, and again acted as Lieutenant-Governor after the departure of Farquhar.

In 1805 the status of the Penang administration was again raised to that of a Presidency with Philip Dundas as the first Governor. The Secretary to the Presidency Government was H.S. Pearson, and the Assistant Secretary Thomas Stamford Raffles. Under the new administration Phillips was reduced to the position of Collector of Customs and Land Revenue. After the death of Dundas in 1807 Pearson acted as Governor until the appointment of Colonel Macalister, who had been Fourth in Council and Commandant during Dundas' Governorship.

It was during the Governorship of Colonel Macalister, in 1808, that the long awaited Charter of Justice arrived in Penang with Sir Edmund Stanley as the first Recorder of the Court of Judicature of Prince of Wales' Island.⁴ It was as a result of the interpretation placed by Sir Edmund Stanley and subsequent Recorders on the wording of the Charter that the accepted view came to be that the law of Penang was so much of the law of England as it stood in 1807 as was suitable for the settlement and modified in its application by reference to the needs of the inhabitants and local circumstances. Sir Edmund Stanley sat as Recorder until 1816 and was succeeded by Sir George Cooper who remained in Penang for only a few months and who was in turn succeeded by Sir Ralph Rice who sat as Recorder until 1824.

Colonel Macalister was succeeded as Governor by a Mr. Bruce who died after only a few months and in December 1810 Mr. Phillips entered upon the first of his many terms as acting Governor. Bruce was succeeded by Mr. Seaton and once again Phillips was called upon to act as Governor on several occasions, but once again he was passed over when Petrie was appointed to succeed Seaton. On Petrie's death in 1816 Phillips again acted until in 1817 Colonel Bannerman was appointed as Governor. On Bannerman's death in 1820 Phillips again acted until in the following year he succeeded Bannerman as substantive Governor of Penang, twenty years after his first arrival in the island. Phillips held office as Governor until 1824 being succeeded by Robert Fullerton who was the last Governor of Penang, and the first Governor of the Straits Settlements.

The Minute reproduced here was thus written during Phillips' tenure of the Governorship of Penang, after nearly a quarter of a century spent in the Penang administration.

³ Not to be confused with Major (later Lieutenant-Colonel) William Farquhar, Resident at Malacca until 1818 and subsequently first Resident of Singapore.

⁴ For an account of the establishment and early working of the Court of Judicature under the first Charter of Justice see "The First Year of the Court of Judicature of Prince of Wales' Island 1808-9" (1973) 15 *Mal. L.R.* 55.

The text of the Minute was re-printed in Singapore in 1884 in *Papers and Correspondence relating to the Land Revenue Administration of the Straits Settlements (1823-1837)* edited by W.E. Maxwell. The text reproduced here is that of the 1884 reprint save that the *errata* accompanying that reprint have been incorporated in the text. Errors in the 1884 text have been left uncorrected and any use of *sic* in the text is presumably that of Maxwell. In a few places where the text could not be deciphered the symbol [...] has been used.

G.W.B.

THE HONORABLE MR. PHILLIPS'
MINUTE ON THE LANDED TENURES,
OF
PRINCE OF WALES' ISLAND,
DATED 15TH AUGUST, 1823.

1. I AM here desirous of bringing under the full consideration of the Board, the state of the Landed Tenures on this Island, a subject not less intricate than it is important. It involves interests deeply affecting the prosperity of this Settlement, whilst the Documents which relate to it, are dispersed among such a numerous variety of Records, that the very labour of compiling and collecting them has occupied several months.

2. Before we can attempt to regulate such a Settlement of our Lands as will secure the interests of our Agriculturists, as well as the rights of the Public; or indeed, before we can even comprehend the bearing of this complicated question, we must refer to the whole body of the Proceedings of this Establishment, and trace the existing System of our Landed Tenures, with its evils, from the first occupation of the Island, down to the present moment. By a thorough knowledge only of the origin, progress, and present condition of Landed Property at this Settlement, and of the progressive rise of Colonization and Cultivation, shall we be able to ascertain the cause and precise character of the existing evils; and the degree and quality of the remedies which ought and can now be applied to them.

3. Without apologizing, therefore, for the great length into which this subject must necessarily lead me, I shall, in the first instance, present to the view of the Board, properly arranged and accompanied by explanatory observations, every important Document relative to our Landed Tenures, which can now be found in the Records of this Island, from the year 1786, to the present time. I prefer this course of citing in full the Documents themselves, because it will be the best mode of substantiating the truth and justness of the conclusions I shall deduce, and because the question often depends on points of Law, which demand a reference to the very letter of the Engagements contracted between the Government and the Proprietors of Land.

4. It is not my intention to call upon the Board to adopt any very sudden or immediately extensive course of measures. After drawing up a full and accurate Statement of our Landed Tenures, and accompanying it with those observations which have occurred to me in the progress of my investigation, I shall suggest such arrangements as may, in my opinion, be quietly and gradually introduced hereafter, for the purpose of effecting a just and permanent Settlement of our Lands.

5. The Board will see, that on the many legal points connected with our Lands and Landholders, I have availed myself of the enlightened opinions of our highly respected Recorder, to whom I am under very great obligations for the able views with which he has favored me. He has, on this, as on every other occasion, cheerfully and most kindly given up a portion of his valuable time and attention towards examining and affording me advice on the different points that I submitted to his consideration, as affecting the relative rights of the India Company, and of the Proprietors of the Soil. Such aid on his part is the more valuable, as without it, this Government, which possesses no regular Law Officer, would soon be involved a labyrinth of legal difficulties. Of course I need not add, that "whatever opinion he may have given on any general question connected with the present Subject, he must always consider liable to be altered in a particular case, by the arguments which may be adduced in the hearing of any Cause that may be brought before him as Recorder."

6. It is well known, that Mr. Light took formal possession of this Island in the name of the Honorable East India Company on the 12th of August, 1786.

7. As the Place, when ceded to us, was an uninhabited Forest, it was natural to expect, that, like our early Settlements in America, any person would here also, in the first instance, become at once a Freeholder by selecting a vacant spot, which, by occupancy and culture, would be come his own; and this principle would be extensively acted upon by the Natives of the surrounding States, as in Malayan Countries we may learn from Marsden, 'property in Land depends' "upon occupancy, unless where Fruit-bearing Trees have been planted." But before quitting Calcutta Mr. Light seems to have anticipated the questions of making Grants of Lands to Individuals, and proposed on the 16th of April, 1786, the following among other queries to the then Governor General, and received the Answer annexed.

"People will come from Malacca, from Coast Coromandel, and many other places, to settle at Penang; it will be necessary to grant them a portion of Land, and to establish a Police for their Security."

"Answer. That would be proper."—

8. This laconic Reply was apparently unsatisfactory, for soon after taking possession of the Island, he thus writes to Bengal on the 25th of November, 1786.

"Captain Scott, and Captain Glass, and several Malays, Chinese, and Christians have applied for a portion of Land; the Subadars, &c., and Mariners likewise expect an indulgence.

"If this place is to be kept, I request the favor of your Honorable Board will please to send me as soon as possible, full Instructions respecting the division of the Lands."

To which he is informed by the Supreme Government in a Dispatch of the 22nd of January, 1787,

"We leave it to your discretion to receive such Colonists as you may think it safe and advisable to admit, and to give each family such portion of Land as circumstances will allow, and you may judge expedient."

9. Upon this passage, Mr. Light seems to have founded his first authority for offering Grants of Lands *to all who would take* them and for issuing a general permission to clear and settle on the Island.

10. It is unfortunate that the Records of Mr. Light's Administration (of the very defective state of which Mr. Superintendent MacDonald complained even in 1797), afforded no traces of the principles which regulated his distribution of Grants of Land. We are obliged to collect a knowledge of his proceedings, from an examination of the few registered Grants bearing his Signature, from the Records of the succeeding Superintendents, and from the verbal testimony of our early Settlers. Every allowance however will be made for Mr. Light when it is recollected, that he founded a Settlement on an Island covered with Forest and Swamp, and executed during seven or eight years, the duties of its Superintendent, with the most praise-worthy temper and judgment, assisted by only one Writer, Mr. Bacon, who composed the whole of his Official Establishment.

11. But as the authority above quoted for giving portions of Land, did not specify the forms and terms under which such Assignments were to be made, it is reasonable to believe, what is stated by our early settlers, that Mr. Light then gave only a *verbal* permission for clearing and occupying the Land, with an assurance that regular *written* Grants should be issued at a future day, and that in his anxiety to encourage Settlers, this permission was general and without restriction; being given to all who applied for ground, and even proclaimed by a Public Circular Declaration in 1788, no Copy of which Declaration, however, have I been able to find, but the following Appeal to it was made by one of the early Settlers, Mr. Young. Upon being interrogated by Mr. Superintendent MacDonald to state his authority for clearing and occupying Land, he declared in a Letter dated 15th May, 1796, and repeated it in a subsequent Memorial addressed to the Governor General:

“When I undertook the clearing of this Land, I did it on
“ the faith of Government being pledged in the public Circular
“ Declaration of the Superintendent in 1788, and then uncon-
“ tradicted. That every person settling and clearing Land on
“ Penang, became thereby virtually possessed of a property in the
“ soil to him and his Heirs for ever.

“ Such were the terms on which I became a Settler and clearer
“ of Land.

In a subsequent Letter to the same Superintendent, dated 5th March, 1797, he observed again:

“ That this Settlement could never have reached its present
“ state of advance through any other means than the exertions,
“ accumulated labours, and the Capitals of private Individuals,
“ is a matter on which no person contemplating it can hesitate
“ to decide; and I aver without danger of contradiction, that
“ had not the encouragement which was given by Mr. Light, and
“ particularly the assurance that the clearers of Land should
“ thereby virtually acquire right and property in the same, never
“ been given, there would not, at this day, have been 100 Acres
“ of Land cleared, unless what might have been cleared at the
“ expense of the Honorable Company.”

12. On this point we may further gather from Mr. Superintendent MacDonald's Report to the Governor General dated the 12th November, 1796, (about two years after Mr. Light's decease) the following information.

“ The only Tenure upon which Lands are held upon this
 “ Island, is the Superintendent's Grants, which have been in very
 “ few instances issued. A vague and indiscriminate order seems
 “ to have been given on the moment of settling, entitling every
 “ person able to handle an axe to the possession of such Ground
 “ as his personal exertion, or his funds, might enable him to clear.
 “ No further obligation was stipulated. To cut down the heavy
 “ Timbers, and to raise a little Paddy among the roots, was deemed
 “ quite sufficient. By what means the Lands were ultimately to
 “ be brought into cultivation, what *quantum* of labour should be
 “ annually bestowed upon it to assure Government of a progressive
 “ improvement upon a large or moderate scale; or to preclude the
 “ hurtful consequences of idleness or caprice by which the half
 “ cleared Lands might again revert to Jungle, seems not even to
 “ have been considered as a necessary preliminary to the grants
 “ of property, in the defence of which large sums were to be
 “ expended, and from which a rational expectation of return, at
 “ a stated period, might equitably be expected. The Malays were
 “ allowed to roam at large — to open as change directed. The
 “ effect as to quantity was soon perceived, but the benefits which
 “ might have expected, followed tardily. Vast tracts after the
 “ first clearing, and a few scanty crops of Paddy gleaned were
 “ left to revert as fast as the operation of nature would permit,
 “ to their original state.

“ Land was a superabundant commodity, considered of little
 “ value. To ask was to have: or to appropriate without asking
 “ was equivalent to legal right.

“ Hence at present much difficulty in ascertaining the difference
 “ between what has been granted originally by Mr. Light, or
 “ subsequently purchased, and what has been taken without any
 “ permission.

“ Hence claims of extensive tracts from 50 to 100 Orlongs
 “ by men whose fortune, funds, and credit, enabled them not to
 “ cultivate more than 15 to 12.

And in a subsequent Letter to the Governor General dated August, 1797, the same gentleman observes on this subject:

“ Mr. Light, in his eagerness to clear, gave away as much
 “ to every claimant as his avidity, or his consciousness of industry,
 “ prompted him to demand. Malays, Sepoys, Lascars, all descrip-
 “ tions became *seised of Landed Property*, the axe their only title,
 “ but without any obligation of improvement, restriction, or even
 “ acknowledgement, a Dollar a year excepted; which guaranteed
 “ the possession of an hundred as well as one Acre. How his
 “ practice came to differ so widely from his theory, I am at a loss
 “ to determine; few Grants were regularly issued of consequence,
 “ in whom property really vested has often come to be, since his
 “ death, a source of cavil and uncertainty. The native Surveyor's
 “ measurement, attested by his Seal, is at this moment the only

“ Document which the greater number possess on which to found
“ their right.”

Whilst Mr. Acting Superintendent Caunter declares in 1799, to the Vice President in Council.

“ Mr. Light, after having given away every yard of Ground
“ on the Point within the limits of what is denominated George
“ Town, (a small place called the Square excepted) reserved a
“ spot of a few Orlongs as an Esplanade to the Fort.”

13. It is but fair however to shew, that a letter on record, dated the 10th February, 1790, proves Mr. Light did propose the following rules for regulating the distribution of Grants.

“ I have before mentioned to your Lordship the necessity
“ and usefulness of making roads for the encouragement of
“ cultivation. Grants in perpetuity may be given to all those who
“ have Families, and an exemption for seven years from *Land Tax*,
“ to those who clear and cultivate 50 Orlongs; but if any person
“ leaves the Island with his family, before the time of seven years
“ is expired, such Grant shall revert to the Company and be sold
“ by Public Sale, the deserting Proprietor receiving no more than
“ one third of the amount, the remaining two thirds to be paid
“ into the Company’s Treasury.

“ Every Land-holder shall rear a certain number of cattle
“ for every portion of Land, say 5 Acres, 2 head of Cattle.”

14. It does not appear that the Supreme Government furnished Mr. Light, with the instructions he had solicited respecting the division of Lands, before the date of the following; which are contained in a Dispatch of the 17th of January, 1790, but which, I think, could not have arrived at Penang at the time Mr. Light proposed his rules above cited.

“We think it would be proper that any Land applied for
“ by settlers should be portioned into lots, and divided amongst
“ them, as much care being taken as circumstances will admit,
“ that these lots of Land do not exceed the ability of the persons
“ and their families to cultivate them; by which means no part
“ of the Island will in time remain uncleared.”

15. But it is worthy of remark, that long before the date of these Instructions, or even of Mr. Light’s proposed rules above quoted, he had made many written, as well as verbal Grants of Land, containing no stipulation, or obligation, or reservation of any kind beyond the annual payment of a small Quit Rent. In the oldest Book of Grants at the Collector’s Office, the first Grant is dated the 1st January, 1789, and although it is the only Grant recorded before the year 1790, yet, as it is marked No. 8, it is reasonable to suppose that some of the Sheets of the Book have been lost. There is another Grant dated 1st of January, 1789, which became the subject of reference to the Supreme Government in 1799, and is transcribed in the Proceedings of that year, from which we may learn the exact tenor and form of Mr. Light’s first Grants. It runs as follow:

“KNOW all men by these Presents, that by virtue of an
“ Authority from Earl Cornwallis, K.G., Governor General of Fort

“ William, in Bengal, I do hereby grant unto John Glass, and his
 “ Heirs for ever, a piece of Ground, measuring three hundred and
 “ sixty feet in front facing the sea, and five hundred and eighty
 “ feet North and South, adjoining to the Sepoy Lines on the left,
 “ and to Mr. Grey’s on the South side, subject, after the expiration
 “ of one year from the date hereof, to an Annual Quit Rent of
 “ two Spanish Dollars. Dated in Fort Cornwallis, on Prince of
 “ Wales Island, this first day of January, in the year of our Lord
 “ One Thousand seven Hundred and Eighty-Nine.

(Signed) F. LIGHT.

16. The above Document appears to be, to all intents and purposes, a Grant in *fee simple*, entitling the holder to all the ordinary rights of Landed Property, as in England. Such also are the terms of all Mr. Light’s subsequent Grants. They contain no clause, enforcing the payment of the annual Quit Rent, prohibiting the future abandonment of the Land, or regulating the restrictions and limitations under which all transfers and sales were to be made. They only advantage secured in them to the Honorable Company, is the reservation of an annual Quit Rent.

17. The first Authority from the Supreme Government to make Grants in perpetuity which I have been able to discover, is dated subsequent to Mr. Light’s death, the 27th April, 1795; to which I shall have occasion hereafter to refer; yet it appears from the above Grant, as well as from the following Extract of a Letter from the Governor General to the Honorable Court dated 2nd November, 1795, that Mr. Light had long anterior to that period issued numerous verbal and written Grants in *perpetuity*. In fact the terms of all his Grants were *perpetual*:

“ The following point in determining the question of retaining
 “ or abandoning the Island, must be considered.

“First. That the population upon the Island, consisting of
 “ subjects of various Countries, exceed 20,000; that a considerable
 “ tract of Land has been cultivated under a promise by the *late*
 “ Superintendent of *perpetual* possession; and that the amount of
 “ immoveable property on the Island is very considerable.”

18. It is impossible to believe that Mr. Light would have ventured to issue Grants in perpetuity, and to cite in the body of the Instrument, as he has done above, “by virtue of an Authority from Earl Cornwallis,” unless he had actually possessed some express authority to that effect; and it is fair to presume, from the opinion which that virtuous nobleman recorded in his Minute dated 18th September of the same year as that of our first Grants, namely that “an advantageous tenure and *certainty of enjoyment* alone can be expected to effect any improvement in the cultivation of the Country,” (which opinion afterwards regulated the permanent settlement of the Bengal Lands), that full permission was communicated to Mr. Light to make the terms of his Grants *perpetual* in some Dispatch which has been lost.

19. And here I cannot forbear stopping to notice the opinion prevalent at his settlement, that the India Company being only Tenants at will of this Island, can have therefore no right or title to issue Grants of the Soil in perpetuity.

20. The King of Quedah made a voluntary offer of the Island to the Supreme Government, and the 1st Article of Mr. Light's Treaty with His Highness dated 1st May, 1791, stipulates, that

“The English Company will give to His Highness Iang de per-tuan of Quedah, Six Thousand Dollars every year for as long as the English shall continue in possession of Pulo Penang. The first Article also of Sir George Leith's subsequent Treaty, signed 5th July 1800, stipulates:

“That English Company agree to pay annually to His Highness Iang-de-per-tuan of Perlis and Quedah, Ten Thousand Dollars, as long as the English Company shall continue in possession of Pulo Penang, and the country on the opposite Coast hereafter mentioned.”

21. In these, certainly, there is no *Grant of the Soil*; yet the Company are not precisely Tenants at will. I should imagine their Lease cannot expire as long His Highness of Quedah is paid by them his Annual Stipend and both the above Treaties declare that their provisions shall be perpetual; that is, “as long as the Sun and Moon retain their splendour.”

22. Let me add here, that when Sir George Leith's Treaty with Quedah was referred to the Advocate General at Calcutta, he observed in a Letter to Mr. Secretary Lumsden, dated 18th June, 1802.

“From whence (the Treaty with the King of Quedah) it may be collected, that he has not only ceded the Possession, but the Sovereignty and entire Government of the Island to the Company, as long as they think proper to hold it.”

“But he stated in another part of the same Letter;

“Although it does not appear to me to be necessary, it would be prudent to obtain a cession of Sovereignty of the Island in express terms by a Treaty with the King of Quedah.”

23. “There is another question, which is, whether His Highness of Quedah, upon the expiration and non-renewal of the Company's Charter at any time hereafter, may not embarrass the local Authorities, by refusing to renew the Treaty with any other party, and by demanding, before our own Court of Justice, the restoration of this Island, which being held “*on a base or qualified fee*” by the Honorable Company, the Grant will perhaps be entirely defeated the instant that Body ceases to govern India. That His Highness may then legally prefer such a suit I fear he will not want advisers to point out to him.

24. This difficulty was, I believe noticed on the occasion of the Lord Bishop of Calcutta's consecration of our Church; and the only mode of preventing its occurrence appears to be by the payment of a *reasonable Purchase Money* for the Island. Such a measure was once before recommended by me. But the Title of the Honorable Company to retain possession of the Island, as long as they please, is clear, and I must submit their right to make Grants of Land in fee simple to the examination of our superiors and their Law Officers; I am, however, disposed to treat that matter as a question referable to *political considerations only*.

25. On submitting this question to the Learned Recorder, he favored me with the following observations.

“I am quite clear, that the King of Quedah can never *interfere at Law* with the Tenures of Land. I am persuaded that for what he receives, by whatever name it shall be called, it will be considered so far of a political nature, and so far bottomed on Treaty, that the Company will here, and in all English Courts of Justice, be held to be Sovereign, and not liable in a Municipal Court. I am equally clear, that the Company are so far paramount Lords of the Soil, as to be estopped from disputing the legality of their own acts, and consequently cannot take advantage of their want of power to vacate the Deeds, made by this Government, and their acknowledged Agents. I am sure, therefore, that the existing Grants are not to be affected by the Government, and I do not think that the Legislature would affect them. The King of Quedah can never on such subject, have a *locus in judicio*; and however base, or qualified, or subject to whatever condition may be the fee, or right of the Company, from defective Treaty, they would be estopped from saying so; having assumed a right to make a Grant in fee, subject only to one condition of paying a certain Quit Rent; and Laws do not raise and imply Covenants where expressed ones are provided by the parties.”

26. The foregoing observations, however, and a reference to our Grants will sufficiently prove that Lands are held on this Island on a freehold Tenure, or as Estate of inheritance. The words of the Grant “and his Heirs for ever,” creating the Proprietor of every such Grant “a Tenant in fee simple.” Now though such freehold property has been created on this Island, it deserves to be mentioned here that the Rules which, according to British Law, govern the disposition and inheritance of such real property, have never been made applicable to our Lands, and it has always been the practice and custom to consider them as *personal* property, liable to all forms of debts, and on the *decease* of Individuals, converted into Assets, and treated by their Executors or Administrators in the same manner as all other Goods and Chattels. His Majesty’s Letters Patent establishing our Court of Judicature, direct, in Page 16, that “that Court shall have and exercise Jurisdiction as an Ecclesiastical Court, *so far as the several Religions, Manners, and Customs of the Inhabitants will admit*;” and the Charter in general does not appear to me to recognize any other than a *Chattel interest in respect to Lands* possessed by Europeans or other Individuals here. The Rules which now govern the disposition and inheritance of Lands at Penang are in fact the same as those represented by Marsden to be the custom of Malayan Nations; and I observe, that although freehold Property is held in most of the West India Islands, the 5th Geo. II. c. 7, in consequence of some Petitions from different bodies of English Merchants complaining that Colonial Laws afforded but an inadequate remedy for the recovery of debts, enacted, “that the Lands, Houses, Negroes, and other Hereditaments, and all real Estate whatever should be liable to and chargeable with all debts due either to the King, or any of his Subjects, and to be Assets for the satisfaction thereof.”

27. But on this point, Sir Ralph Rice has observed to me.

“ I am inclined to think that the Tenure under the Grant, “ would be considered as fee-simple, or like the customary free- “ holds of a manor which pass by Lease and Release. The “ practice has certainly been to treat them as Leases or Personal “ Property, but in similar words I believe Lord Selkirk’s Grants “ in North America were considered in fee and they seem so to “ have been ruled by two Judges out of three in Calcutta, perhaps “ on nearly the same question. The Charter does not consider “ them as personal chattels, but, the very subjecting them to “ simple Contract Debts, independent of the technical power of the “ word “Land,” shews that real property was in contemplation. “ Indeed, the words “Heir” and “real” occur more than once, “ and which apply only to the realty. The Case has never been “ solemnly decided in Penang. I am inclined to think that as “ to Englishmen, it would be considered as real property, and, “ in the absence of a Devise, descend to the Heir at Law, subject “ to dower, courtesy, and all other incidents of real property, “ like the Lands held in Grant, and paying a Quit Rent to the “ Crown in Jamaica, and which pass by Lease and Release. “ I have understood that the question came on incidentally once “ in the Supreme Court at Calcutta, as to Lands here, and that “ it was then decided, that the proceeds of an Estate sold here “ were real assets in the hands of the Executor, and distributable “ as such. I was disappointed of my hope of a note of this case, “ and it may be desirable that it should be investigated. Holdings “ of, I believe, nearly a similar description, have among the “ Portuguese at Bombay, been considered personal, upon the “ grounds of the custom which prevailed when we became possessed “ of that Settlement. In Portugal perhaps the Civil Law, has “ prevailed, which does not, like the English Code, an intermixture “ of feudal and Civil Law, recognise the difference between real “ and personal property. But as among Englishmen I imagine “ the decision would have been, that it was freehold *sub modo*. “ I do not think that the subjecting of Land to Debts, had any “ view towards making it personal. It was in imitation of the “ Acts as to the West Indies, and going a little beyond the Acts “ which in England render Lands only subject to Judgments, “ Bonds, or other special Debts. If Sir Samuel Romilly’s Bill, “ in order to make Lands in England subject to simple Contract “ Creditors, had passed into an Act of Parliament, it would have “ produced no further alteration in English Tenures, I am not “ aware that the Chinese, Malays, or any other of our Native “ Population have any notion of our legal meaning of “Heir” “ nor have they any notion as to rights of primogeniture, res- “ pecting Land. Their property in Land is mere Chattels, and “ becomes divisible, though in different proportions, among their “ next of kin, and it is on that principle, supported in several “ instances by the opinion of the *Cauzees*, that, with respect to “ the natives, I have considered my directions on the Ecclesiastical “ side of the Court safe, without mootng the point; and no “ Englishman has, as yet raised the question. It is possible, it “ might be argued, that *custom* might change the natural legal “ descent to the Heir, in the same manner as custom has intro-

“duced tenure by Borough English, by faulkend, free bench, &c.,
 “ &c., without as I imagine, affecting the freehold and *coparcenery*
 “ as to women.”

28. Since writing the above, Sir Ralph Rice, has drawn my attention to a Suit detailed in Jacob and Walker's Reports of Cases in Chancery, Vol. 1. Page 22-31. I there find, that Lands held in Bengal “by a *Pottah*,” by which a perpetual right of occupancy was “given to the “Grantee, subject to the payment of certain annual “fixed rents, and to forfeiture in case of non-payment” was decided “in 1819, to be “held by a tenure of the nature of fee simple,” “and declared “not to pass by an unattested will, but, to descend to “the person who would be Heir at Law in England,” although the “Counsel for the Defendant argued The rights which Europeans “acquire in property purchased in the East Indies, are subject to “great doubt. The question is one of the greatest importance. It “has always been the policy of our Government to prevent emigration “to that Country; no one is allowed to go there without a License; “and can English Subjects who are not permitted to colonize acquire “Indian Property which is to become descendible to their Heirs?” And although the Master of the Rolls, in giving Judgment, allowed, “There have been many discussions as to how far, when English “Subjects have carried out our Laws and established Court of Judicature in Foreign Countries, any particular Laws should operate there. “There is great difficulty in fixing to what extent our Law of real “property, with it's numerous refinements, chiefly derived from feudal “ideas, not applicable to other Countries, should attach in the Foreign “Dominions of England.” The above decision goes far to set at rest all further doubt as to the question, whether our Lands, which are held by Grants, expressly made in favor of the Grantee “and his Heirs for ever,” are of the nature of *fee simple*, subject to the same Laws of descent with freehold property in England.

29. To return to Mr. Light. From the following passage in a Letter from him to the Governor General, dated 30th July, 1792, I should conceive that is was not until that year that a Registry for the sale of Lands, &c., was established by him.

“I have appointed *Hakims* or Notaries to keep Registers of
 “Marriages, Births, Deaths, Slaves, and Sales of Lands and
 “Houses. They are imperfect at present, but by degrees will
 “become regular, and prevent much litigation.”

And the duties of the Notary are thus enumerated in an old Book containing Mr. Light's Regulations.

“Loong Pakeer Cando, Company's Malay Writer, or Hakim,
 “keeps a Register of all Slaves bought or sold upon the Island;
 “also of all Houses and Grounds either sold or transferred,
 “for which he receives.

“For all Slaves	1 Dollar.
“For Transfers	$\frac{1}{2}$ ”
“For Petitions and Letters	$\frac{1}{2}$ ”

“From the Company, a Salary of 30 Dollars per month.

“A Malay Hakim is in quality of an Attorney, and his place
 “is of trust and emolument.”

But Mr. Scott, as we shall hereafter see, represented even in 1796, that this Register had been imperfectly kept, and that it required examination.

30. Mr. Light's Accounts of Actual Receipts and Disbursements of the Residency of Prince of Wales' Island, for the year 1788-9, 1791-2, and 1792-3, exhibits Sums received under the head of "Duties on sale of Houses and Lands" and I should be led to believe that this Tax was introduced in the year 1788, when he first recommended, and the Supreme Government approved of it, from the following Correspondence on our Records:

Extract of a Letter from Captain Light, to the Governor General, dated 20th June, 1788.

"Agreeably to the Instructions communicated to me in your Lordship's Letter of the 25th January, I have considered of the several modes by which some part of the expense of this Settlement may be defrayed.

"4th. That a duty of 2 per cent be levied upon the Sale of all Houses, Lands and Tenements; also upon the Estates and Effects of deceased persons. This is consonant to the customs of the Country.

Extract from the reply from the Governor General to Captain Light, dated 25th August, 1788.

"We approve generally of the plan you recommended for defraying some part of the expense of your Settlement; but as Duties or Taxes upon the Trade in it's present state, may operate to it's discouragement, we shall think it proper to suspend them until your future advices shall assure us, that they may be levied without possible injury to the Commerce of the Island, and to the objects we have in view in the possession of it.

"For the present therefore, we think it necessary to direct only.

"1st. * * * * *

"2dly. * * * * *

"3dly. That a duty of 2 per cent be levied upon the sale of all Houses, Lands and Tenements; also upon the Estate and Effects of deceased persons; this being agreeably to the custom of the Country."

31. I could never however find the Instrument which imposed that Tax, nor the Rules for collecting it; and Mr. Scott's communication to Mr. MacDonald's Committee of Merchants in 1796, is the only place where I have been able to find, that, "a Bill of Sale was not valid, if unregistered, or the duty unpaid," and that Mortgages, to be valid, required a Surveyor's Certificate or Measurement Paper to be attached thereto." And the fact that there is no return of the Duty on the Sale of Houses and Lands in the Actual Receipts and Disbursements of the Settlement for years 1789-90 and 1790-91, as well as the following passage in a Letter addressed by Mr. Manington to the Supreme Government, on the 4th of July, 1796, would appear to prove that

this Tax having been very irregularly collected, was proposed to be re-established under some additional Rules in 1796.

“An account of Duties proposed to be collected on account of the Honorable Company at Fort Cornwallis, Prince of Wales' Island, in order in some degree to enable them to defray the expenses of the Establishment, and which is submitted to the consideration and confirmation of the Honorable the Governor General in Council.

“ A Duty of two per cent, to be levied on the sale of all Houses, Lands and Tenements: also upon the Estate and Effects of deceased Native Inhabitants, either Chinese, Malays, Chooliahs, &c., &c. This is conformable to the country customs.”

32. In the Registry Book at the Collector's Office, the first Registry (*Numbered one*) is dated 20th January, 1792, but no payment of any duty is entered, or even alluded to, until the Registry of No. 276 on the 29th June, 1796, and all the Rule for collecting it, is limited to the following Form, transcribed in one of the blank leaves at the beginning of the book.

“Registered No.”

“ Received the Honorable Company's Duties on the sale
“of Houses and Lands. Amount _____ at
“2 per Cent, is _____”

No Registry exists of any sale of Slaves, and no notice of any duty having ever been levied on the Estates and Effects of deceased persons, or on the sale of Slaves after the year 1802-3. Much of the confusion in our Lands, has risen from the loose and vague manner in which this Registry of Alienations has always been kept. The duty has been considered in the light of a fee only, payable if the sale were registered, whilst the Registry itself was deemed optional; and since the Establishment of the Court of Judicature, the Registry of Title Deeds there, has been thought to render any further Registry at the Collector's Office * quite unnecessary I may here further remark, that from the year 1792, to the year 1819, the sales and Transfers of Cutting and Measurement Papers, which are merely inchoate Titles to Lands, were entered in the Collector's Register in precisely the same manner as those of regular Grants, and payment of the Company's Duty received, thereby sanctioning all such alienations. As a proof that Bills of Sale were so sanctioned and registered without first requiring that the Lands should be held under a regular Grant from the Company, the following regulation passed by Mr. Superintendent Manington on the 4th of May, 1795, may be cited.

“In the year 1209, on Monday, the 4th day of Shawall.
“ It is ordered by the Governor of Pulo Penang, that the Inhabitants of Soongby Cluan, who are desirous of selling their
“ Gardens or Paddy Fields, are in the first place to give notice
“ thereof to Punghlima Loongh, the Punghooloo of the District,

* See Appendix No. 1 for the difference in the Annual Proceeds of the Tax between the years immediately preceding 1808-9, and the years subsequent to the Establishment of the Court of Judicature.

“ who will go and view the Lands and ascertain the right and
 “ title the seller has to dispose thereof. This being ascertained
 “ he will then bring or send both the Buyer and Seller to Town,
 “ when the proper Papers are to be made out, and the Transfer
 “ registered in Superintendent’s Office.

33. I hold this duty however on the Sales of Land to form a regular branch or the Revenue of the India Company, recoverable at Law in the same manner as other established Taxes; for we have seen above, both Mr. Light and Mr. Manington proposed this Duty as *Revenue*. One of the first measures necessary to be adopted towards completing a settlement of our Lands is to enforce this registry of alienation and the future collections of this Duty; but to enable us to appeal to the Law for such purpose, if necessary, we must endeavour to obtain a certified copy of the instrument which first imposed this Tax, and of the Rules established at that time for collecting it; and by an application to the Supreme Government, I conceive their old Records could furnish us with these necessary Papers. The accompanying return, No. 1, from the Accountant’s Office will shew, that the Amount of Duty collected on the Registry of Sales and Transfers of Land, from the year 1788-9 to the end of the last *Official Year* was Dollars 35,258.48¾.

34. It was not until the 25th of July, 1774, that Mr. Light applied to the Supreme Government for the appointment of an Assistant to act as Collector, and to take charge of the duties connected with the Lands, stating in Letter on record of that date.

“ The Office of Collector may appear unnecessary where
 “ there is no Landed Revenue, but the Plantations, particularly
 “ Pepper, are increasing so fast that it will afford employment
 “ to one person to examine and register them previous to a Tax
 “ being laid. A Board of Plantation might be established to meet
 “ occasionally, at which this Officer should preside to determine
 “ upon the making of Roads, divisions of Lands, the adjustment
 “ of Boundaries, and the encouragement of Agriculture. Their
 “ determination, when sanctioned by the Superintendent, to be
 “ carried into execution, unless it should be so far creative of
 “ expense, as to render it an object worthy to be previously
 “ reported to your Honorable Board.”

35. The Supreme Government, however, on the 1st of August of the same year (1774), came to the following Resolutions, which appear to shew that that Authority must have been quite unaware of the general and indiscriminate allotments of Lands made by Mr. Light, who we have seen from Mr. Caunter’s Letter of 1779, had already “given away every yard of Ground within the limits of what is denominated George Town.” It is sincerely to be regretted that these resolutions had not been adopted at an earlier period, as the check and restriction contained in them with respect to Grants of Lands, came too late to obtain any effectual or beneficial operation.

“ Resolved. That the Superintendent, Mr. Light, be directed
 “ to prepare without loss of time, an Account of all the allotments
 “ of Land on the Island, whether for the purpose of Dwelling
 “ Houses, or for Cultivation, specifying the quantity and quality

“ of each allotment and the species of produce; and that he
 “ immediately establish such rates of taxation on the Lands
 “ allotted for Cultivation, as he may deem proper and equitable,
 “ and transmit a Statement of the whole to the Governor General
 “ in Council.

“ Resolved. That *no* allotment of Lands be made in per-
 “ petuity, or upon Lease exceeding five years, commencing from
 “ the 1st January next, and that Mr. Light be particularly directed
 “ to reserve a sufficient quantity of Land in the most eligible
 “ situation, for the purpose of erecting Public Buildings, or for
 “ other public uses, in case they should be hereafter wanted.
 “ The Public Buildings and uses to which this Resolution applies
 “ are a House for the Superintendent, and Arsenal, Storehouses,
 “ Custom House, Market, and Houses for the Officers of Govern-
 “ ment. That in the mean time, as the reservation of such
 “ eligible situations may prove inconvenient to Settlers, Mr. Light
 “ be authorized to permit them to make use of them for the
 “ purpose of erecting temporary habitations, to be relinquished
 “ without compensation whenever the Occupant may be called
 “ upon so to do by Government. The above Resolutions are not
 “ to have a retrospective effect, so far as to occasion the removal
 “ of any habitation already erected with permission. A Report
 “ upon the whole to be made to this Government.

36. Mr. Light died in October of the same year, and was succeeded by Mr. Philip Manington. The first Document termed “Measurement Paper,” which remains in the Collector’s Register, is dated during Mr. Pigou’s short and temporary Administration in 1795, although a reference to Mr. MacDonald’s Records shews, that such Papers were abundantly* issued in Mr. Light’s time. This Measurement Paper is one of the three written forms in which Lands are held at Penang; but it is usually written and dated in the Malayan character and signed only by the native Land Measurer. The following Translation of one will prove how loose and informal all such Titles to hold Lands must be.

“ In the year Waw, the twentieth day of Mohrum, this day
 “ Wednesday. Be it known, that Abdul Latiff, Land Measurer,
 “ hath measured a piece of Ground belonging to Juan Augustin,
 “ and which measures on the East thirty-seven Jumbas, which is

NOTE.—1 Jumba 12 feet square, 20 Jumbas 1 Orlong, which is as nearly as possible, 1½ Acre.	“ one Orlong and seventeen Jumbas; on the West one Orlong and fourteen Jumbas; on the North one Orlong and four Jumbas; and on the South one Orlong and four Jumbas; estimated to contain two Orlongs
--	---

“ and two Jumbas and the boundaries of which ground, are East,
 “ by Captain Scott’s Ground, West, by the Great Road; North,
 “ by Mr. Laton’s Ground, and South, also by Captain Scott’s
 “ Ground situated near the Salt Marsh, in the District of Tanjong
 “ Penaigre. This Ground was formerly Captain Scott’s and given
 “ away by him, for which this measuring Paper is made to remain
 “ with Juan Augustin, that no misunderstanding take place here-
 “ after.”

(Signed) ABDUL LATIFF.

* (Ed.) The pagination of the original here jumps from 14 to 17, but as the sense is continuous it is assumed that this is a typographical error.

37. Mr. Light's Friend and Companion, Mr. James Scott, is the first person in our Records who notices the above Document when reporting through the Committee of Merchants, which Mr. MacDonald had nominated in 1796, for the purpose of devising means for the improvement of the Commerce and Revenue of the Island, the mode in which property in houses and lands originated and was then held at Penang. Mr. Scott accompanied Mr. Light upon his first occupation of the island, and was well known to live on terms of very great intimacy with that gentleman. His description of our early Landed Tenures may therefore be relied upon; and I beg the Board to observe on what a loose and defective system Landed Property must have been held and transferred, and how irregularly the Register of such must have been kept up to that period of 1796, since it appears, that the whole execution of such important duties, was placed under the management of Natives, while there was no correct formula for the Register of a Bill of Sale or a Mortgage.

“ A Certificate is given by the Company's *Native* Surveyor, to which he affixes his *Chop*, describing the name, country, and the first clear, settlers, rent, and boundaries of the Land so cleared. This empowers the person therein named to hold, sell, mortgage, or transfer such Lands, by Will, or otherwise at his pleasure.

“ Property in Houses in George Town originated in being the first clear, which was the case in the Environs, or being the first builder, as was the case with the first Street lined off. These last are registered by the *Native* Surveyor. Sales are made without the Surveyor's Certificate, reference to the Register being sufficient. *This Register, we believe, has been irregularly kept, and requires examination.*

“ Bills of Sale, either of Houses or Lands, are wrote by the *Native Akeem Bundar*, or Judge of the Port, who affixes his Seal. This Bill of Sale should be accompanied with the Surveyor's Certificate, and is next registered in the Company's Register, and a Receipt affixed that the duty of 2 per cent. has been paid; *otherwise it is not valid.*

“ This Bill of Sale, or *chopped* Register and Receipts of Duties paid, with the Surveyor's Certificate, conveys a full and perfect right to the Purchaser, and from him, to another, and so on. But we believe the formula of a Register of both Bill of Sale and Mortgage is much wanted.

“ *Mortgage to be valid, must have attached thereto the Surveyor's Certificate, and a Bill of Sale, above described, must be chopped by the Akeem Bundar, and registered and numbered in the Company's Register.*”

38. The above described Native Surveyor's Certificate having thus been recognized as empowering the Proprietor to hold, sell, or otherwise alienate his Lands at his pleasure, Individuals became indifferent about having them exchanged for regular Grants. When or why this Document was first introduced I have been unable to discover; but I conceive that it was first given pending the reference Mr. Light made to the Supreme Government in February 1790, for regulating the future distribution of Grants, and that the practice continued from

motives of convenience to the Superintendent and Collector, as supplying them, whenever regular Grants were to be issued, with all the information required regarding the dimensions and boundaries of each piece of Ground. Hence this Document came to be considered, as it is to this day, preliminary to a more regular Deed from the Government direct, by virtue of which 5,309 Orlongs of Ground are shewn by the Collector's Book to be now held on the Island.

39. The first permission to clear and occupy Lands having been general and verbal, (as we have already seen) Mr. Light issued no such Documents as "Cutting Papers" which comprise the third Form, on which Lands are held at Penang, and which, we shall hereafter see, were first introduced by Mr. Macdonald, in the year 1797.

40. But the Governor-General's Resolution prohibiting the issue of Grants of Lands in perpetuity, and restricting them to a Lease not exceeding five years, was never adopted or promulgated by Mr. Light. The state of his health at that time seems to have prevented him from writing to the Supreme Government on the subject, and we are obliged to collect a knowledge of his proceedings and sentiments on this point also from the Records of his successors, which contain however no traces of his ever having rescinded his first general permission to clear and occupy Lands at Penang. On this point we may learn from Major Kyd's second Report on Penang, dated 20th August, 1795.

"In conversing with Mr. Light, the late Superintendent, on the subject, I found that he had by no means fixed in his own mind what would be the proper mode, but was fully convinced that the system of letting the Lands on Leases for five years, as recommended by the Board, was not applicable to the situation, as it would be unjust to those that had already cleared the Lands at great expense, and yet reaped inconsiderable profits, and would effectually discourage others from undertaking it.

41. The Committee of Merchants further stated to Mr. MacDonald, in 1796.

"It appeared after Mr. Light's death, that he had received orders from the Supreme Government to grant no Lands for a longer term than five years. This he had wisely suppressed, being aware of its evil tendency; but it was made generally known, though not officially, by his Successor, and this in such ill defined terms together with the refusal of Grants after 1st January 1795, though for Lands previously settled, as to generate an apprehension in the Community, that the order affected *all* the Lands.

"It is observed that no woods have been cut down by the Natives since Mr. Light's death, or more properly, since the time the orders from the Supreme Government respecting the five years Lease, were generally made known by his Successor.

42. And lastly, Mr. Young represents to the same Superintendent in his Letters of the 5th March, 1797, and 15th May, 1796.

"The resolution of the Board of August 1794, alluded to in the above Publication, on its receipt at Penang, was suppressed

“ by Mr. Light until he should be able to address the Supreme Government on the subject of it, when he entertained no doubt that it would be rescinded. I speak not from conjecture. I speak from my own knowledge of these his sentiments communicated to me and others. Their resolution of the 1st August, was not then, nor has it ever since been promulgated by any of his Successors. It was privately known and talked that such a resolution had been passed, and invariably supposed it *would be rescinded.*”

“ It appears that Mr. Light, not long before his death, received the orders of the Supreme Government under date the 1st January, 1795, to grant no Lands for a longer term than five years. This order Mr. Light wisely suppressed, well knowing that the publication would instantly stop all further advance, and on the full reliance that it would be rescinded on his representation.”

43. Although, however, these Resolutions of the Governor General appear to have acted as the first check to that general and indiscriminate liberty of occupying Land which had been issued by Mr. Light, yet in consequence of some representation, when, or by whom submitted our Records do not shew, the Supreme Government made the following Declaration in a Letter dated 27th of April, 1795, a Declaration which I learn from Mr. Young’s Correspondence with Mr. MacDonald, so often quoted before, “was published in December of that year by Mr. Pigou, when Acting Superintendent:—

“ We proposed to reconsider our resolutions of the 1st August, 1794, that no allotments of Land be made in perpetuity or upon Lease exceeding five years, commencing from 1st January, 1795. But we think it necessary to acquaint you, in the mean time, that it never was in our contemplation to resume privileges granted to Planters by the late Superintendent; and to direct that all those who have cleared and cultivated Ground, in consequence of his assurance that it should become their sole property in future, may be informed that we deem them entitled to the full benefit of that promise which we accordingly confirm.”

44. The above very interesting Paragraph, by which the Supreme Government appears first to have confirmed all Mr. Light’s *verbal* as well as *written* Grants in perpetuity, “to those who had cleared and cultivated Land,” I can find nowhere recorded, excepting in Mr. Young’s Letter to Mr. MacDonald of the 5th March, 1797.

45. With respect to Mr. Philip Manington’s short Administration, I find that on being called upon by the Supreme Government for an accurate Account of all the allotments of Land, which it may be presumed Mr. Light had not transmitted before his death, he reported as follows in a Letter on record, dated 4th of July, 1795:—

“ It was my earnest wish and desire to have complied with your orders, in transmitting by this, an accurate Account of all the allotments of Land on the Island, whether for the purpose of Dwelling Houses, or for Cultivation, specifying the quantity of Land and the species of produce on each, as also the Survey of George Town, in Prince of Wales Island, commonly called

“ the Point, and the Bazar, containing the names of the Streets,
 “ the number of Houses in each Street the Inhabitants in each
 “ respective House, Men, Women, and Children, ascertaining their
 “ different casts and occupations. The Malay Land Surveyor I
 “ have employed has been upwards of four months on the business
 “ and I am informed little more than half is finished and trans-
 “ lated from the Malays into English. By the *Carnatic* which
 “ will said direct from hence to Bengal, the end of this month,
 “ I shall hope to forward the Account complete.”

But he afterwards stated on the 2nd of August, 1795:—

“ I am at a loss how to apologize to your Honor for not
 “ having as yet forwarded the Survey and measurement of the
 “ different allotments of Cultivated Land on the Island.

“ Mr. Thomas Pigou five months ago, voluntarily undertook
 “ this business, and I thought him the most proper person for it
 “ from his knowledge of the Island and the Inhabitants in general.
 “ In order to exculpate myself from any censure this seeming
 “ neglect may bring upon me, I beg leave to enclose Mr. Pigou's
 “ Original Letter to me on this subject before his departure from
 “ hence.”

46. It is useful to notice here, that this Survey appears not to have been completed during Mr. Manington's Administration. He died in 1795, and after Mr. Thomas Pigou and Mr. John Beanland's temporary charge, was succeeded by Mr. MacDonald, by whom, we shall hereafter see, the Survey was again ordered, and by whose death it was again left incomplete. Had a full and accurate account of the allotments of Land been made at that early period, much of the present confusion and difficulty would, no doubt, have been obviated.

The following Copy of a Grant issued by Mr. Manington, as Superintendent, shews that, with the exception of an attempt to give it a more technical character, he made no material alterations in the spirit and form of that adopted by Mr. Light.

“*Tangong Penaigre District No. 15.*”



“ KNOW all Men by these Presents, that
 “ I, Philip Manington, Superintendent of Prince
 “ of Wales' Island, by virtue of an Authority
 “ from the Governor General in Council of
 “ Fort William in Bengal, do hereby give and
 “ grant unto Loong Pakheir Candor, and his
 “ Heirs for ever, a piece of Ground situated
 “ in Beach Street, George Town, bounded on
 “ the Eastward by Beach Street, and measuring
 “ along that side two hundred and four feet,
 “ bounded on the Westward by the Mosque,
 “ and measuring along that side one hundred
 “ and fifty nine feet bounded to the Northward
 “ by Soodaagar Meerakan Kundoo's Ground,
 “ and measuring along that side three hundred
 “ and fifteen feet, with full and sufficient power
 “ to him or them to sell, assign and dispose

(Signed) T. PIGOU,
Assistant.

Registered, By Order
of the Superintendent
No. 19, this 31st day
of December, 1794.
(Signed) T. PIGOU,
Assistant.

“ of the same as to him or them may seem
“ proper, subject however, after the expiration
“ of the present year, to an Annual Quit Rent
“ of one Sp. Dollar. Given under my Hand,
“ and the Seal of the Honorable East India
“ Company, at Fort Cornwallis, on Prince of
“ Wales Island, this thirty first day of December,
“ in the year of our Lord one thousand seven
“ hundred and ninety four.”

(Signed) PHILIP MANINGTON,
Superintendent.

48. Mr. Superintendent MacDonald's Proceedings with respect to Landed Property were extremely zealous, and they are very voluminously recorded. He appears, immediately after his arrival, to have recommended to the Supreme Government to rescind their Resolutions of the 1st August 1794, and to permit Land to be again given in perpetuity, stating in his Letter of the 24th July 1796:—

“ The moment it should be known that Lands were to be
“ given in perpetuity, and Government willing to protect and
“ assist, our Population, of the most valuable kind, would rapidly
“ increase. No moment more favorable, as the Chinese in the
“ Dutch Possessions are disgusted and embarrassed, the neighbour-
“ ing Malay Planters of Pepper would swarm to us to benefit by
“ that security of property which they know not in their own
“ country.”

49. The Committee of Merchants, before alluded to, also represented to him on the 5th of July 1796:—

“ No Grants of Land on a five years Lease have yet been
“ applied for, and here where the Countries surrounding are
“ jungle and Lands of no value, it is probable they will never be
“ applied for. — The hope of being able to leave to their Children
“ a House, Garden, and Land, independent of their own Kings,
“ and secured by the Company to them and their Heirs, was a
“ great inducement to removal, and that hope having been rendered
“ dubious, or put an end to, has a bad effect.”

50. In consequence of these representations the Supreme Government, in a Letter from Mr. Secretary Barlow, dated 22nd August of the same year, 1796, again confirmed all Grants that had been made in perpetuity to Settlers, and also rescinded their restrictive Resolutions of 1794, stating

“ As Government can derive no advantage from retaining the
“ property in the Land, with the exception of those spots which
“ it may be judged proper to reserve for public purposes, and as
“ the rendering the Tenures perpetual, will no doubt contribute
“ greatly to the extension of Cultivation, and the general improve-
“ ment of the Island, the Governor General in Council not only
“ confirms all Grants that have been made in perpetuity to
“ Settlers, but rescinds his Resolutions of the 1st of August 1794,
“ directing that after the 1st January 1795, no Grants should be
“ made for a term exceeding five years and to be subject to such

“ Taxes and Regulations as it may be judged proper to impose
“ or establish for the Island in general. These Taxes and Re-
“ gulations, as well as the limitations as to the extent of Land
“ to be granted to one Individual, will be the subject of future
“ consideration, and will of course be regulated by principles of
“ equity and a due regard to the prosperity of the Island. In the
“ mean time, with a view to encourage industrious Settlers, you
“ are authorized to make grants of Land, not exceeding twenty-five
“ acres to any one Individual, subject to the final confirmation of
“ the Bengal Government. If Land to a greater extent should be
“ applied for, you will report the Application to the Governor
“ General in Council.”

51. We may here observe again how unapprised the Governor General must have been of the state of our Lands. — The following Estimate of Lands cleared, and to what nation granted, which Mr. MacDonald transmitted to Bengal in 1797, shews that the best and largest portion of the Land had been given away previous to the receipt of the above orders from the Supreme Government, and that having fully confirmed all these allotments by their Dispatch of the 27th April, 1795, as well as by the present Letter, it would have been most difficult and embarrassing then to impose “any limitations as the extent of Land to be granted to one Individual.” The proposed restriction also of “Grants of Land to twenty-five Acres to each Individual,” must for the same reasons have been then of little use.

*ESTIMATE of LAND cleared on Prince of Wales' Island, with number of Orlongs in each District,
and to what Nations granted.*

NATIONS.	Tanjung Panaga.	Taloo Jelotong.	Battoo Lanchang.	Sungy Glugore.	Battoo Oban.	Sungy Dua.	Sungy Neebong.	Sungy Chan.	Sungy Teram.	Battoo Moog.	Ayer Eiam.	Tolla Terajah.	TOTAL.
Europeans	40	140 16	0	20	0	0	29	70 10	0	0	432 10	745 3	1477 19
Chinese	27	47	137	55	0	0	3	232	0	0	4 15	116 10	776 15
Malays	9	383	79 2	65 10	56	127	58 10	585	118 2	70	136	289 9	1915 13
Buggese	3	97 19	0	0	0	116	0	0	0	0	0	0	100 17
Siamese	31	0	0	0	0	0	0	0	0	0	9 9	0	40 9
Chuliahs	25	6	86	0	0	0	60	0	0	0	4 9	72	253 9
Bengalis	7	0	0	0	0	0	0	0	0	0	36 15	40 12	84 7
Caffries	0	0	0	0	0	0	0	0	0	0	0	14 10	14 10
Burmahs	0	0	0	0	0	0	0	0	0	0	0	93	93
Native Portuguese	10	20	0	0	0	0	0	15	0	0	16 5	183 15	235 10
Achinese	2	16 7	0	0	0	0	16 5	10	0	0	15	11	70 12
Arabs	4	11 5	0	0	0	0	0	0	0	0	0	0	15 5
Battoo Barahs	0	0	0	0	0	0	0	12	0	0	0	0	12
The Honorable Company	63	0	0	0	0	0	0	0	0	0	0	0	63
TOTAL	211 10	749 5	302 2	140 10	56	243	166 15	847 10	118 2	70	653 3	1565 19	5152 16

N.B.—The figures correspond exactly with the original. The total of the acreage held by Bugis is evidently a mistake and there may be others. Tolla Jarajah should be Telok Ayer Rajah. This estimate is not dated, but see Appendix No. 2. W.E.M. May, 1884.)

52. Mr. MacDonald, however, replied to that Dispatch on the 12th November 1796, as follows:—

“Immediately on the receipt of your orders communicated
“in the 6th Paragraph of Mr. Secretary Barlow’s Letter, 22nd
“August, I made known your kind intentions of rescinding your
“Resolutions of the 1st August 1794, and the indulgences held
“forth to ambitious industry on your permission that further
“Grants be issued; but the quantity of Land already in hand, and
“our feeble means which forbids our offering even a shadow of
“protection to those adventurers, who from a knowledge of the
“peculiar advantage of site and richness of soils wish to clear
“away and settle in the Western Bays, restrict us.

53. Mr. MacDonald proceeded in 1798 viâ Bengal to Madras, where he soon after died. That the Survey which he had ordered was not completed, we may presume from the silence of the Records respecting it, and from the Supreme Government, as we shall see in the sequel, having directed Sir George Leith, two years after Mr. MacDonald’s death, to order the execution of one.

54. I find one of Mr. MacDonald’s objects for proceeding to Madras, was to submit certain propositions respecting the Landed Tenures of Penang to the Governor General, who was then at that Presidency, as Mr. Acting Superintendent Caunter states to the Vice President in Council on the 16th of July 1799:—

“On the departure of Mr. MacDonald, last for Bengal, he
“gave official directions to allow of no transfers of Land or
“Mortgages thereon from Natives to Europeans, until the Governor
“General’s pleasure should be known on certain propositions
“which he meant to lay before him relative thereto.”

55. Mr. MacDonald, appears, but only by the Records at the Collector’s Office, to have been the person who introduced the Document named “Cutting Paper,” as the first in the Register is dated 22nd December, 1797. This is the third written form in which Lands are held at Penang, and Landed Property, as I have before remarked, had always been allowed to be Sold, Transferred, and Mortgaged upon such Papers; and, until the year 1819, all Alienations or Assignments on them were entered in the Collector’s Register, although the following Copy of one will shew, that it contains only a simple permission to cut the original Jungle and clear the ground.

“This is to Certify, that _____
“has permission to clear Ground to the extent of _____
“Orlongs, in the District of _____
“but should Government ever find it expedient to resume this
“Ground, the Proprietor will be paid no more than the expense
“he may have incurred in clearing the Ground, viz. 5 Dollars per
“Orlong, and further this Ground must be cleared within twelve
“Months from the date hereof.

By Order of the Superintendent

(Signed) PHILIP MANINGTON,

Second Assistant.

_____December, 1797.

56. The above "Cutting Paper" is the first Document which included the clause reserving to the Company the right of resumption, and very usefully fixed the term within which the Ground shall be cleared; and it is proper to notice here, that this right of resumption, has in no instance been hitherto *enforced*. By virtue of this Instrument

Vide Appendix No. 3. } 9942 Orlongs of Land, are shewn by the
 } Collector's Books to be held on the Island,
 } and on the opposite Territory of Point Wellesley.

57. The following copy of one of Mr. MacDonald's Grants of Land shews, that he also introduced an alteration or new clause in that Instrument. He only raised the Annual Quit Rent payable to Government from one or two Dollars for the whole of each Grant, to two Copongs or one-fifth of a Dollar for every Orlong of Land contained in the Grant, converting thereby the Quit Rent, in fact, to a considerable and direct Land Tax.

"KNOW all men by these Presents, that I Forbes Ross
 " MacDonald, Superintendent of Prince of Wales Island, by virtue
 " of Authority from the Governor-General in Council of Fort
 " William, in Bengal, do hereby give and grant unto China Kong
 " Yeatt, and his Heirs for ever, a piece of Ground situated in the
 " District of Soonghy Dua, bounded to the Eastward by China
 " Hussein's Ground, and measuring on that side one Orlong
 " bounded to the Westward by the Hills, and measuring on that
 " side one Orlong, bounded to the Northward by Soonghy Dua
 " River, and measuring along that River two Orlongs, bounded to
 " the Southward by China Macao's Ground, and measuring along
 " that side two Orlongs, with full and sufficient powers to him
 " or them to sell, assign, and dispose of the same as to him or
 " them may seem proper, subject however from the date hereof,
 " to an annual Quit Rent of two Copongs for every Orlong.

Registered By Order
 of the Superintendent,
 No. 136, this 10th day
 of November, 1796.
 (Sd.) P. MANINGTON,
 Second Assistant.

" Given under my Hand, and the Seal
 " of the Honorable the East India Company
 " at Fort Cornwallis, on Prince of Wales
 " Island, this tenth day of November, in the
 " year of Our Lord one thousand seven
 " hundred and ninety-six.

(Signed) FORBES ROSS MACDONALD.

58. On the subject of Lands held by verbal License, as we have seen Mr. Light proclaimed, and on Measurement and Cutting Papers, Sir Ralph Rice has favored me with the following remarks:—

" The East India Company are still Lords of the Soil and
 " could maintain ejection against any one in possession of Lands,
 " unless estopped by some act of their own. A Grant would be
 " such an estoppel, and defence in ejection* Occupancy by
 " a verbal License, would not, I think, be an estoppel; on the
 " contrary, I think that the License would be held revocable,
 " subject perhaps, according to circumstances, to equities. If the

* In the copy from which this reprint has been made there is a marginal reference to *Wood v. Leadbitter*, 13 M. and W., in Sir Benson Maxwell's handwriting.

“ Statute of Frauds should apply, it would be wholly void, it
 “ being a Contract respecting Lands, which must be reduced into
 “ writing. In either case the Occupant would have no legal right.
 “ Prescription cannot in its strict legal sense apply to Penang;
 “ because, Prescription is beyond the memory of man. But the
 “ law favors possession. Sixty years is a bar to a real action,
 “ and twenty years to an ejection by Act of Parliament; but
 “ to support possession, the Courts have, in cases of Inclosure,
 “ presumed Acts of Parliament. It appears to me therefore that
 “ a Court of Law, would, on a clear, undisturbed, undisputed
 “ possession, presume a Grant and of course, if no Quit Rent
 “ had been paid, in absolute fee simple. The Law presumes that
 “ persons, who have right, shall exercise them, and consequently
 “ decides the Title on undisputed Acts of Ownership during a
 “ given period.

“ The measurement and Cutting Papers do not in principle
 “ materially suffer. They are revocable Licenses, which if not
 “ completed by Grants demanded, would at the instance of the
 “ Company be null and void, and the Land might be re-granted.
 “ I think possession, under such a Document, giving only an
 “ inchoate right, would not be so strongly supported as possession
 “ alone, because the very paper rebuts the presumption of a Grant,
 “ inasmuch, as the Law would scarce presume that the superior
 “ Instrument was destroyed, and the inferior in existence, and
 “ certainly not on a short possession, and without any special
 “ circumstances. I am not aware that a Bill of Sale under a
 “ measurement or Cutting Paper, has ever been supported at Law.
 “ I have ruled that it was only an inchoate right, and not alienable
 “ till perfected by a Grant, and where there were equities, I
 “ directed that the Plaintiff should apply to Government (the
 “ Land and Paper being in the hands of the Sheriff,) for a Grant
 “ to the Purchaser, if the Government would consent that the
 “ same should be sold in satisfaction of the Judgment and I believe
 “ it was so done. I once also supported the possession against
 “ a Cutting Paper, deciding that leaving the opposite Shore, for
 “ a number of years, amounted to a virtual abandonment of Land
 “ cleared under such a Document, and preserved the possessory
 “ right of the mere occupant, and I feel I was right”.

59. Mr. Caunter officiated as Superintendent until April 1800, when Sir George Leith arrived as Lieutenant Governor of the Island.

60. Of the numerous Grants of Land made during the Administrations of Mr. Light, Mr. Manington, Mr. Pigou, Mr. Beanland, Mr. MacDonald, and Mr. Caunter, from the year 1786 to 1800, the Records

Vide Appendix No.4. } of the Collector's Office exhibit	459
of which were subsequently cancelled only	22
and are still remaining.....	<u>437</u>

The Collector's Records do not shew the particular dates of the measurement and Cutting Papers, which have been entered without any such specification, and the Books at the Accountant's Office do not

notice any Quit Rents collected before 1795, but, between that date, and the year 1800, shew the amount realized
 Vide Appendix No. 5. was only Dollars 457.97.

61. In Sir George Leith's first Letter of Instructions from the Supreme Government, dated 15th March 1800, he is advised in respect to Grants of Lands, as follows:—

“ It is the intention of His Lordship in Council to rescind
 “ the Orders of Government of the 1st August 1794, restricting
 “ Grants of Lands to the period of five years, and to render all
 “ existing and future Grants perpetual.

“ The measure is essentially necessary to the Government
 “ of the Island.

“ Previous to carrying this Order into effect, the Governor-
 “ General in Council will await your Report on the restrictions
 “ and regulations by which it may seem to you advisable to
 “ accompany its execution.

“ It appears however to the Governor-General in Council,
 “ that a General Survey should be made of all the Lands in
 “ the Island, that a complete Register of them should be formed,
 “ comprizing all necessary points of information, and that new
 “ Grants having a permanent operation, should be issued.

“ All new Grants of Land should be made subject to the
 “ confirmation of the Governor-General in Council. The extent
 “ of these Grants must be regulated by circumstances, care being
 “ taken, that too large a quantity of Land be not given to any
 “ Individual, and that no person already in possession of Land
 “ obtain a second Grant, until the Lands in possession shall have
 “ been brought into a proper state of cultivation.

“ It can never be advantageous to the public interest that
 “ the Government should retain any considerable tract of Land
 “ in its own possession. It will be proper however to reserve a
 “ sufficient quantity for all public purposes.”

62. With respect to the restrictive resolutions of 1794, here proposed to be annulled, we have seen before that they had already been rescinded by the Supreme Government on the 22nd of August, 1796. But Sir George Leith, addressed Mr. Secretary Barlow, from Penang on the 10th May, of the same year:—

“ I am sorry to observe that it would be impossible for me
 “ to comply with the Orders I have received respecting the retain-
 “ ing of Lands for Public Buildings, as I find the Land belonging
 “ to the Honorable Company in the Town and vicinity to be
 “ extremely limited and much dispersed. The only Spot of any
 “ tolerable size is a Square, where it will be advisable to build
 “ the Chapel.

“ There is not a foot of Ground on the Sea Beach from the
 “ Fort to the entrance of the Harbour (with the exception of
 “ the small spot on which the Hospital now stands) reserved for
 “ Government; the whole has been given away to Individuals,
 “ who taking advantage of the Situation, are most exorbitant in
 “ their demands.”

63. The above is not more than we had learnt from the preceding Superintendents, Messieurs MacDonal and Caunter, — Sir George Leith, however, proposed on the 31st of the same month, the following Rules for the Regulation of Grants of Lands:—

“ In the course of a few days, Mr. Manington,* the second Assistant, and who acts as Land Surveyor, will proceed to take a new and accurate measurement of each District, which is absolutely necessary in order to acquire an accurate knowledge of the boundaries of each Estate, previous to the calling in of the old Grants and issuing new ones; but before I do this, I must request to be honored with the orders of your Lordship in Council as to the quantity of Land to be granted to one person. It appears to me that four hundred Orlongs are as much as should be granted to an Individual. It is probable there will not be many demands for so large an extent of Land; at present there is only one who has so much; a few have upwards of three hundred; but if Sugar is cultivated here, a less quantity than four hundred Orlongs would not be sufficient. No Grant beyond this should be issued without the previous sanction of the Governor General in Council. The Lieutenant Governor should be empowered to issue Grants for the restricted quantity. In order to prevent improper speculation, a clause must be inserted in all Grants issued to those who apply to clear Grounds, that if not brought into a state fit for cultivation within a fixed period, the whole shall revert to the Honorable Company.”

64. These suggestions were fully approved of by the Supreme Government in Mr. Secretary Crommelin's Letter of the 21st August following:—

“ With regard to the Landed Tenures, the Governor General in Council, approves of your suggestion relative to the extent of Land to be granted to each Individual, and also of the insertion in all Grants of a clause by which the Lands are to revert to the Company should they not be brought into a state of cultivation within a fixed period.”

65. Accordingly, soon after, by the following Proclamations, Sir George Leith called in all former Grants, and directed another measurement of the Lands to be made out by the then Land Surveyor, Mr. Manington.

“ PUBLIC NOTICE is hereby given, that in order to prevent in future all disputes and mistakes relative to boundaries, it is the intention of the Lieutenant Governor to call in all present Grants of Lands (as soon as it is reported to him that the present Survey of the different Districts of the Island, is completed) in order to ascertain the just limits of each Individual's property; and where it is found that mistakes have been made in calculating the quantities of Ground, new Grants will be issued. All persons possessed of Land or Houses, for which they have not received a Grant, are required, within six Calendar Months from the 1st day of March next, to make application for the same to Mr. Philip Manington, Registrar, under penalty

“ of not having them issued at a future period, unless the Claimants
 “ give sufficient reasons for the neglect. And further notice is
 “ hereby given, that no Individual will receive a Grant for more
 “ than four hundred (400) Orlongs of Land; but those persons
 “ who may be desirous of receiving a further indulgence are to
 “ make application in writing to the Secretary to the Lieutenant-
 “ Governor, stating the additional quantity they require, the Dis-
 “ trict in which it is situated, and the purpose for which it is
 “ wanted.

By order of the Lieut. Governor,

(Signed) W. E. PHILIPS,
Secretary.

FORT CORNWALLIS, }
 21st February, 1801. }

ADVERTISEMENT.

“PUBLIC NOTICE is hereby given, that the Survey of this
 “ Island being completed, the Lieutenant-Governor, in conformity
 “ with his Notice of the 21st February last, calls upon all Holders
 “ of Grants for Lands in George Town, to send in such Grants
 “ to Mr. P. Manington, Second Assistant, on or before the 1st
 “ day of November next, in order to their being duly compared
 “ with the measurement by actual Survey, and if erroneous, cor-
 “ rected, and new Grants issued. And all such persons as may
 “ be in possession of Lands in George Town, without having
 “ Grants for them, are hereby required to make application as
 “ above directed, when, on their shewing just grounds for posses-
 “ sion, Grants will be issued to them.

By Order of the Lieut.-Governor,

(Signed) W. E. PHILIPS,
Secretary.

FORT CORNWALLIS, }
 6th October, 1801. }

66. Here I can state from my own personal knowledge, as Sir George's Secretary, that the objections and difficulties which opposed the adoption of the rules he had proposed for the regulation of Grants of Land, proved numerous, embarrassing, and insurmountable. No Grant containing a Clause giving a right of resumption to the Government, would be accepted, and the apprehension of his new restrictions induced *many* persons holding Lands by *verbal* or written permission from the preceding Superintendents not to answer to the Lieutenant-Governor's call, or to deliver in their Papers. It was at the same time maintained that the Government were *pledged* to deliver Grants to all such persons without any new conditions, and the fact of Government having sanctioned Bills of Sale for Lands held by verbal License, or on Cutting and Measurement Papers by registering them, was adduced as a proof that a guarantee had been given that the existing Tenures should not be altered.

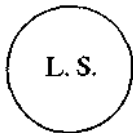
67. It was also generally believed that the Books of the Surveyor's Office would not apprise us of one half of the Grants that had been issued or made by the preceding Governments. Previous to this unsuccessful attempt on the part of Sir George Leith, the Records of the Government do not shew whether Mr. Light, or any of his Successors, had ever endeavoured to provide regularly written Grants for all the numerous tracts of Land which were held upon his verbal permission, or which had been occupied on his Circular Declaration of 1788. Sir George Leith, however, prepared for delivery and exchange as many new Grants as the Books of the Surveyor's Office enabled him to do, but it is material to fix, that he also did not, after all, insert any new or restrictive Clauses, either in any new Grants which he issued, or in those which he was allowed to substitute for the old Papers. The following Copy of one of his Grants will shew, that they are precisely the same as those issued by his predecessors:—

CAMPONG PULO PENANG.

“ KNOW All Men, by these presents, that I Sir George Leith, “ Baronet, Lieutenant-Governor of Prince of Wales Island, by “ virtue of Authority from the Governor-General in Council of “ Fort William in Bengal, do hereby give and grant unto China “ Cha-Wan, and his Heirs for ever, a piece of Ground situated in “ the District of Campong Pulo Penang, bounded to the Eastward “ by a small River and measuring on that side six Orlongs, nine “ Jumbas, bounded to Westward by Nonia Booroo's Ground, and “ measuring on that side four Orlongs two Jumbas, bounded to “ the Northward by Penang Road, and measuring on that Road “ four Orlongs, seven Jumbas, bounded to the Southward by the “ River and measuring along that River five Orlongs fourteen “ Jumbas; estimated to contain thirty-nine Orlongs two Jumbas, “ with full and sufficient powers to him or them, to sell, assign “ and dispose of the same, as to him or them may seem proper, “ subject however from the date hereof, to an Annual Quit Rent “ of two Copongs for every Orlong.

By order of the Lieut.-Governor,

(Signed) W. E. PHILLIPS,
Secretary.



“ Given under my Hand and the Seal of “ the Honorable the East India Company, at “ Fort Cornwallis, on Prince of Wales Island, “ this second day of October, in the year of “ our Lord one thousand eight hundred and “ two.

(Signed) GEO. LEITH,
Lieutenant Governor.

Registered by Order of
the Lieut Governor,
No. 504, this 2nd day
of October, 1802.

(Sd.) P. MANINGTON,
Second Assistant.

68. Sir George Leith, however passed the following very judicious Regulations with respect to Mortgages and Mortgage Bonds and other Writings affecting Lands.

PROCLAMATION.

“ WHEREAS it has been represented to the Lieutenant-Governor
 “ that great inconveniences arise to the Inhabitants in general
 “ from, and that many frauds may be supported by, the practice
 “ of not duly registering Mortgages and Mortgage Bonds and other
 “ writings affecting Lands within this Island, and the Territories
 “ subordinate and dependent thereon, and that the Mortgagors
 “ frequently plead ignorance of the nature of such Bonds and
 “ Writings. In order to prevent in future, as far as may be,
 “ all such inconveniences and grievances, and causes of complaint,
 “ PUBLIC NOTICE is hereby given, that no person holding a Mort-
 “ gage or Mortgage Bond, or Writing affecting such Lands as
 “ aforesaid, bearing date or to be executed after the 15th instant,
 “ shall have remedy by the aid of any Court, Magistrate, or
 “ Process on this Island, or its Territories or Dependencies, towards
 “ the recovery of the same, or the Amount thereof, unless such
 “ Mortgage or Mortgage Bond or Writing shall be duly registered
 “ in and before the Magistrate’s Court here, within fifteen days
 “ after the same shall have been executed and granted.

“ And all Holders of Mortgages and Mortgage Bonds and
 “ Writings already executed and granted affecting Lands within
 “ this Island and its Dependencies, are hereby required to register
 “ the same within two Calendar Months from this date, except
 “ in case of their absence from the Island or its Territories and
 “ then as speedily after their return thereto or knowledge hereof
 “ as conveniently may be, on pain of forfeiture of the rights of
 “ such aid, as aforesaid, towards the recovery of the same, or
 “ the amount thereof.

“ And any person presuming to recover the Amount of a
 “ Mortgage, or Mortgage Bond or Writing, or to obtain possession
 “ of the Premises Mortgaged, otherwise than by due course of
 “ Law, or peaceably, will, if guilty, or complained of as guilty of
 “ a breach of the Peace, be proceeded against accordingly.

“ A Fee of one Dollar to be paid on the registering each
 “ and every Mortgage, and Mortgage Bond, or Writing, having
 “ date on and after the 15th instant, and a Fee of half a Dollar
 “ on each and every other of a date prior to the 15th instant.

By Order of the Lieut.-Governor,

(Signed) W. E. PHILLIPS,
Secy. to the Lieut.-Governor.

FORT CORNWALLIS, }
 The 9th October, 1800. }

PROCLAMATION.

“ WHEREAS in and by a certain Proclamation bearing date the
“ 9th of October, 1800, issued by order of the Lieutenant-Governor
“ of the Settlement of Prince of Wales' Island, and its Dependencies,
“ PUBLIC NOTICE was given, that no person holding Mortgages,
“ Bonds, or Writings affecting Lands bearing date, or to be
“ executed after the 15th October, 1800, should have remedy by
“ the aid of any Court, Magistrate, or Process in the Island or
“ its Dependencies towards the recovery of the same, or the
“ amount thereof, unless such Mortgages, Bonds, or Writing shall
“ be duly registered in and before the Magistrate's Court; and
“ whereas all Holders of Mortgages, Bonds and Writings then,
“ and at the date of the aforesaid Proclamation already executed,
“ were thereby required to register the same within two Calendar
“ Months from the 9th of October, 1800. And whereas several
“ Mortgagees, and Holders of Bonds have registered their Mort-
“ gages and Bonds with the second and third Assistants of the
“ Lieutenant-Governor, instead of registering the same in and
“ before the Magistrate's Court and from such undue registering
“ the Mortgagees and Bond Holders have been deprived of their
“ remedy at Law for the recovery of Debts *bond fide* due to them:
“ It is therefore ordered and enacted by the Lieutenant-Governor
“ of Prince of Wales' Island and its Dependencies that all Mort-
“ gages, Mortgage Bonds, and other Writings affecting Lands
“ within the Island and the Territories subordinate and dependent
“ thereon, which by the mistake of the parties holding the same
“ shall have been Registered since the 9th October, 1800, before
“ Philip Manington, or John Swaine, Esquires, the second and
“ third Assistants of the Lieutenant-Governor, or either of them,
“ instead of being duly registered in and before the Magistrate's
“ Court, shall, notwithstanding the aforesaid Order of the 9th
“ October, 1800, be considered, and to all intents and purposes
“ be and remain good and valid Mortgages and Bonds affecting
“ the Lands for which they were respectively pledged; and the
“ Judge and Magistrate of the Settlement shall give such and the
“ like aid and process for the recovery of the same, and the
“ Amount thereof, as the parties holding the same would have
“ been entitled to, if the same had been duly registered in and
“ before the Magistrate's Court, according to the tenor of the
“ aforesaid Proclamation.

“ But it is hereby further enacted and declared, that from
“ and after the date of this Proclamation, no person holding a
“ Mortgage or other Security affecting Land, to be executed from
“ and after the date of this Proclamation, shall have remedy in
“ the Court of the Magistrate for the recovery thereof, unless the
“ Mortgagor of the Land shall personally come before the Judge
“ and Magistrate of the Island, within fifteen days from the
“ execution of the Deed of Mortgage, and personally acknowledge
“ the deed before the said Judge and Magistrate Sitting in Open
“ Court. And it is further directed, that all Mortgages of Land,
“ if written in any other Language and Character than the English
“ and Malay Language and Character shall be accompanied either
“ with an English or Malay Translation of the same, and it is
“ further directed, that after the Judge and Magistrate of the

“Island, shall have taken the recognizance or acknowledgment
 “of the Deeds aforesaid, and shall have indorsed his name and
 “an Entry to that purport, that the parties holding the same shall
 “duly register the same in a Book to be kept for that purpose
 “in the Office of the Judge and Magistrate of the Island, and
 “shall pay the like Fees to the Government as have been hereto-
 “fore paid for the said Registry.

By Order of the Lieut.-Governor,

(Signed) W. E. PHILLIPS,

Secretary.

FORT CORNWALLIS,
 24th September, 1801. }

The above Regulations were subsequently adopted by the Court of Judicature.

69. About this time, Mr. Dickens was appointed Judge and Magistrate of the Island, and he proposed to the Governor-General on the 21st of August, 1801, a voluminous Regulation on the subject of our Landed Tenures which was, however, never adopted, and is now recited in full by me* because our Learned Recorder considers “the Rules for Registry proposed in it very excellent and applicable, explicit, intelligible, and in Language sufficiently technical.” He recommends that whenever we have the power to frame Rules, Ordinances, and Regulations for the good order and Civil Government of this Island in the same manner as the Governments of the other Presidencies, have by the 13th GEO. III. C. 63, and 47 GEO. III. C. 68, we should enact this admirable Rule as the Law, with such alternations as experience may warrant; and he thinks the Rule requires very little alteration.

70. By the Treaty with Queda already quoted, Sir George Leith obtained in 1800 an additional Tract of Land on the opposite Coast, containing in superficial Measure, about eighty-four square Miles, and the whole fit for every species of useful Cultivation. “Cutting* Papers” for 4,222 Orlongs of the Land there had been issued before the date of those arrangements which the Board adopted on the 1st of August last year. It is satisfactory to know that our plans for affording that Territory more efficient security and protection, and for encouraging cultivation there, have already greatly ameliorated the state of that District, promising soon to render us independent of Queda for our supplies. I may add here, the Cutting Papers formerly issued on account of Lands at Point Wellesley, are much more loose and vague than those for Lands on our Island, inasmuch as they define no boundary or site, but merely state so many Orlongs “on the opposite Territory of Point Wellesley.” The same observation applies to the Cutting Papers issued for Lands in the Western Districts.†

† NOTE.—When Sir George Leith, issued a Proclamation on the 7th July 1800 notifying that the King of Queda had granted a tract of Land on the opposite shore in perpetuity to the Honorable Company, he expressly and carefully declared that no person whatsoever was to settle on the ceded Territory after that date without having previously obtained the sanction of the Government of this Island. Perhaps this Proclamation would be received at Law against any person attempting to found a right to Lands in Province Wellesley upon simple possession alone since 1800.

71. Sir George Leith, left the Island on the _____ and was succeeded by Mr. Farquhar. I should here mention that the new measurement which Sir George Leith directed Mr. Manington to make of all the Lands, was completed and submitted to him on the 14th October 1802, but the Paper which accompanied Mr. Manington's Map, entitled "a report on the present state of the Population and Cultivation of the Island," was mislaid at the time, and was never found. The new Government in 1805, as we shall hereafter see, conjectured that Sir George Leith might have inadvertently carried it away with him. Thus, even after this Survey of the Island, which had been so often ordered, had been completed, the Map was rendered useless by the key to it being lost.

72. Mr. Farquhar called upon all persons holding Cutting Papers, or possessing other Claims to Land, to receive Grants from him by the following Proclamation:—

"PUBLIC NOTICE is hereby given, that all persons holding
 "Cutting Papers, or possessing other Claims to Lands for which
 "no regular Grant has hitherto been issued, shall produce the
 "same to the Lieutenant-Governor, on or before the 1st day of
 "July next, in order that Grants may be issued to the Holders
 "thereof, on their right to the property being proved. All persons
 "now residing on this Island, and the Honorable Company's
 "Territories on the opposite shore, and neglecting to conform to
 "this Order, shall forfeit all future claims unless satisfactory
 "reasons be shewn for such omission.

By Order of the Lieutenant-Governor,

(Signed) W. E. PHILLIPS,

Secretary.

FORT CORNWALLIS, }
 31st May, 1805.

and as he proposed to introduce no new Clause into the Grant, many came forward and received such Titles from him.

73. In his valuable report on the Island left for the information of the new Government in 1805, Mr. Farquhar introduced the following observations regarding our Landed Tenures:—

"The Second Civil Assistant is the Surveyor and Register of
 "Lands. It follows of course from what I have already remarked
 "on the foregoing heads, that the commencement and gradual
 "acquisition of property on this Island has never been regulated
 "by any specific Law, but the mode in which all property is held,
 "has, by prescription, and the Orders of the Supreme Government
 "in India, derived a legality which must be recognized by whatever
 "Code of Laws may ultimately be established for this Island.

"Mr. Light, it appears, gave a general license to all descrip-
 "tions of people to cut Jungle, at their pleasure as to the quantity,
 "time, and places, pledging the faith of the Government that
 "Lands so cleared should be and remain the sole-property of the
 "clearers, and their Heirs for ever, subject to Quit Rent only in
 "reservation of the Sovereignty, to the Honorable Company. This
 "pledge the Supreme Government have recognized and continued.

“ The mode of acquiring property at Prince of Wales’ Island
 “ at the present day, is simply as follows:—

“ Any person (without exception) desirous of clearing Lands
 “ applies to the Surveyor or Registrar for a License to cut the
 “ Original Jungle. This License recites the place and the *quantum*
 “ and the time in which it must be effected, reserving to the
 “ Company a right of resumption, on paying a charge of 5 Dollars
 “ per Orlong to the clearer. When the Ground is cleared enough
 “ to be measured, the clearer reports to the Surveyor, who so soon
 “ as the multiplicity of calls on his Establishment will admit,
 “ gives the clearer a Paper, describing the extent, boundaries, and
 “ site of the Ground he has cleared; after which, should the
 “ Company have no occasion for the Ground, a Grant is pro-
 “ curable. The Grant conveys to the Holder a free-hold property
 “ without restraint or limitation, subject only to the Quit Rent
 “ already specified. These Grants are inserted in a General Re-
 “ gister, and are numbered from 1 to _____

“ Sales of Property held by these Grants are liable to a duty
 “ of 2 per cent on the Amount Sales, on the payment of which
 “ the transfer is registered in the name of the Purchaser, who
 “ has thereafter every right which the clearer acquired from the
 “ Company, subject however to the same Quit Rent.

“ Mortgages of Lands conveyed by these Grants are regis-
 “ tered in the Cutcherry and countersigned by the Judge and
 “ Magistrate. In this mode Landed Property has been acquired,
 “ and is now held, sold, or Mortgaged. The rights thus conveyed
 “ have hitherto of course been recognized in the decisions of the
 “ temporary Courts of Justice established by the Authority of the
 “ Governor-General in Council for the Government of Prince of
 “ Wales’ Island, &c., they must therefore be equally valid and
 “ binding as those which may be hereafter established by Act of
 “ Parliament.

74. It is necessary to notice here, as the Honorable Court, we find, mis-apprehended the passage, that Mr. Farquhar’s term “License to cut the Original Jungle” alluded not to *Grants*, but to “Cutting Papers,” which alone contain a Clause reserving to the Company a right of resumption. The origin and nature of those Documents, being only one of the three Tenures by which Lands are held on the Island, I have before shewn, when treating of Mr. MacDonald’s proceedings. But the form and tenor of Mr. Farquhar’s *Grants* were precisely similar to those issued by Sir George Leith and his Predecessors, as may seen by the accompanying Copy of one:—

TANJONG PENAI GRE DISTRICT.

“ KNOW ALL MEN by these Presents, that I Robert Townsend
 “ Farquhar, Lieutenant-Governor of Prince of Wales’ Island, by
 “ virtue of Authority from the Governor-General in Council of
 “ Fort William, in Bengal, do hereby give and grant unto John
 “ Brown and his Heirs for ever, a piece of Ground situated to
 “ the North-East of the Prangin River, Tanjong Penai gre, bounded

“ to the Eastward by Syed Hussain, Noquedah Aklas, Che Mat, “ Geegee Pooty, and other persons' Grounds, and measuring on “ that side in a crooked direction two thousand one hundred and “ twenty-one feet, bounded to the Westward by Captain James “ Scott's Ground, and measuring on that side five hundred and “ two feet, bounded to the Northward by Kader Maydeen's and “ Mahomet's Burying Grounds, and measuring on that side in “ a crooked line one thousand four and thirty-four feet, bounded “ to the Southward by the Road along the Prangin River, and “ measuring along that Road one thousand six hundred and thirty “ feet: estimated to contain about twenty-four Orlongs, with full “ and sufficient powers to him or them to sell, assign and dispose “ of the same as to him or them may seem proper, subject however “ from the date hereof, to an Annual Quit Rent of one Spanish “ Dollar.

By Order of the Lieut. }
 Governor. }
 (Sd.) W. E. PHILLIPS, }
 Secretary. }
 Registered by Order of }
 the Lieut. Governor No. }
 1716, this 1st day of Aug., }
 1805. }
 (Sd.) P. MANINGTON, }
 Second Assistant. }

“ GIVEN under my hand, and the Seal of “ the Honorable the East India Company at “ Fort Cornwallis on Prince of Wales Island, “ this 1st day of August, in the year of Our “ Lord one thousand eight hundred and five.

(Signed) R. T. FARQUHAR,
Lieutenant-Governor of Prince of Wales' Island, and its Dependencies.

75. The Number of Grants issued during the Administration of the Lieutenant-Governors, from 1800 to 1805, appears by the Books of the Collector's Office to have been.....1,111 of which were cancelled subsequently.....37 and are still remaining.1,074

Vide Appendix No. 4. }

and the Amount of Quit Rent realized during the same period, the Books of the Accountant's Office shew to have been Dollars 2,069-57½ pice.

Vide Appendix No. 5. }

One cause which enabled Mr. Farquhar, to issue more Grants than his Predecessor, was, that for most of them, and indeed for all comprising Lands within George Town, he demanded Mr. Light's low rate of Quit Rent only, of one or two Spanish Dollars for the whole Grant, instead of Mr. MacDonald's high rate of two Copongs for every Orlong in it.

76. But although when it was seen that neither Sir George Leith, nor Mr. Farquhar inserted any new Clauses in their Grants of Land, many presented their Claims and Papers, yet as a proof of the repugnance of several to any new Title Deeds, I shall only mention, that there remain at the Collector's Office at this moment, 153 Grants

which Sir George Leith prepared and signed, but which the Owners of the Land refused to take out, or to exchange for the Documents they previously possessed.

77. The experience of Sir George Leith fully shews, that the Government will not be obeyed, if they determine to call in at once all Grants; and I learn from Sir Ralph Rice, that although the reservation of the Quit Rent gives to the East India Company a Title to demand a sight of all Grants, it gives them no power to alter in the slightest degree, any of the existing Grants, or even to enforce their right of inspection, if resisted, without the tedious and odious process of an Action by Ejectment. Compromise must therefore be tried whenever we may hereafter require to inspect existing Grants.

78. The Honorable Court of Directors then resolved that the future system of managing the Company's Affairs at Prince of Wales Island, should be by a Governor and Council, and when they arrived in September, 1805, their attention was thus drawn to the state of the Landed Tenures in the first Instructions of the Honorable Court:—

“ We have reason to apprehend, that upon our first taking possession of the Island, very little attention was shewn to the Tenures upon which such Grants ought to have been issued. A vague and indiscriminate order seems first to have been given entitling every person to such Grounds as he might be able to clear. At that period Ground was said to be of such little value, that to ask was to have, or to appropriate was equivalent to legal right. Hence extensive tracts from 50 to 100 Orlongs were possessed by men who could not cultivate more than from 15 to 20. We direct that you endeavour to ascertain the state of cultivation of the Lands under such Grants for the purpose of resuming such as may remain uncultivated agreeably to a clause which we understood to have been inserted in the Grant that they should revert to the Company, if not brought into a state of cultivation within a fixed period”.

“ We observe by the Instructions to the late Lieutenant-Governor, that it was in contemplation to rescind the Resolution of 1st August, 1794, respecting Grants of Lands for the period of five years, and it was proposed to render all existing and future Grants perpetual, we very much doubt the propriety of this proposed Regulation.”

79. Besides this mis-apprehension of the passage in Mr. Farquhar's Report, which I have already explained, the Honorable Court seem to have been misled in respect to the question of Grants in perpetuity, by Mr. Secretary Barlow's Letter of the 15th March, 1800, who himself seems to have been unaware of the restrictive Resolutions of 1794 having been previously rescinded by the Supreme Government, and all existing Grants fully confirmed. A greater portion therefore of the Honorable Court's above Instructions was rendered inapplicable.

80. The new Government found the subject to be so set round with difficulties and embarrassments, and particularly as Mr. Manington's Report before mentioned was not forthcoming, that they determined on putting a stop to all further Grants, until a new Survey of the Island could be made by a professional person, for whom they

applied to the Supreme Government; writing in the meantime to the Honorable Court on the 12th November, 1805, as follows:—

“On the first taking possession of the Island, those that cleared the most Land in an impervious Jungle, were deemed most meritorious. It is not therefore surprising that Grants of Land were, under such circumstances, bestowed in a manner that would now be thought inconsiderate”.

“A regular Survey of the Eastern side of the Island, was taken in the year 1801, by Mr. P. Manington, and laid before the then Lieutenant-Governor, Sir George Leith, Baronet, on the 14th October, 1802, accompanied by a Paper entitled “A Report on the present state of the Population and Cultivation of the Island”.

“We are in possession of a Copy of the Map, but the Paper alluded to is not to be found. Mr. Manington is of opinion that Sir George Leith may have inadvertently carried it with him, and from whom it may probably be forthcoming”.

“Having applied to Mr. Manington, to take another Survey or to amend his former Map and Statement according to the present circumstances of the Island, we find that he has now other pursuits to attend to, and he has not any memorandum from which he could make out another Copy of the Statement abovementioned. We have in consequence written to the Governor-General requesting that a Land Surveyor may accompany the Officer of Engineers intended for this Establishment. On his arrival, we shall employ him in making a Survey of the at present cultivated part of the Island, which we shall transmit to your Honorable Court; as without having such a Document in your possession, our reference we fear, will hardly be intelligible, when we have occasion to address you on the subject of the Naval Arsenal and Fortifications”.

“For the present we have put a stop to all further Grants of Land; those already granted to Individuals appear to be considered as free-holds by their present Possessors; the Grants do not contain any clause entitling the Company to resume such as remain waste or uncultivated, in which state considerable tracts continue at this time”.

81. The new Government in the meantime issued the following Proclamation in view to subject the practice of Mortgaging, to some additional Regulations:—

PROCLAMATION.

“WHEREAS a custom has been introduced in Mortgaging Lands and Houses at Prince of Wales' Island, in the first instance to take an absolute Conveyance by one Deed, and then by a separate Deed (concluded and agreed on between the parties and having relation to that absolute conveyance), to provide that at some future period of time there specified, the said Lands and Houses shall be re-conveyed, or revert to the vendor in the

“absolute conveyance mentioned, on his performing some Conditions in the said separate Deed mentioned, and whereas the said separate Deed may be lost and then an absolute Conveyance may be set up, and the spirit and principle of the Proclamation of the 21st September, 1801, which directs that all Mortgagors shall in open Court acknowledge their Deed, has been thereby evaded, the Honourable the Governor and Council of Prince of Wales’ Island have therefore enacted, and do hereby enact and declare; that from and after the day of the date of this Proclamation, every Bill of Sale that shall be executed, of and concerning Lands and Houses on this Island, and the opposite dependent Territory, whether absolute or conditional, shall be utterly void and of no effect, unless the Vendor or Mortgagor of the said Lands or Houses shall personally come and appear before the Judge and Magistrate of the Island and within fifteen days from the execution of the Bill of Sale, and acknowledge his or her execution of the said Bill of Sale before the said Judge and Magistrate, sitting in open Court; and the Judge and Magistrate shall indorse on the said Bills of Sale an acknowledgement to this effect. And the Register of Bills of Sales of Land is hereby directed not to register any Bill of Sale of Land from and after the date of this Proclamation, unless such endorsement shall be previously made thereon by the said Judge and Magistrate, and with respect to Bills of Sale of Lands and Houses which have been executed before the date of this Proclamation, but which have not been already registered with the Register of Bills of Sale, the Holders of the said Bills of Sale not yet registered, are requested to produce the same within fifteen days from the day of the date of this Proclamation before the said Register, who will register the same, if the vendor of the Land pay the duties due to Government thereon; and from and after fifteen days from the date of this Proclamation, the said Register is directed not to register any Bills of Sale of Land whatever; and although executed prior to the date of this Proclamation, unless the Judge and Magistrate should certify, by his Signature thereon, that the same ought to be so registered and the Honorable the Governor and Council do hereby authorize the said Judge and Magistrate to receive and take the fee of one Spanish Dollar for taking each any every acknowledgment of such Bills of Sale of Land.

By Order of the Honorable the Governor and Council,

(Signed) H. S. PEARSON,
Secretary to Government.

FORT CORNWALLIS, }
The 15th March, 1806. }

82. Here we may regret that the new Government did not at the same time enforce the payment of the Registry Duties, and enact that the omission to register the Bill of Sale at the Collector’s Office also, and to pay the Company’s Duty should “render it utterly void and of no effect.”

83. But about this time I was directed, as Collector, to relieve Mr. Manington from the charge of the Books and Papers of the

former Land Surveyor's Office. I have before shewn, that many of Mr. Light's Grants were merely verbal, that they were general and indiscriminate, that the Registry for the Sale and Transfer of Lands did not commence until six years after his first arrival, that even in 1796 it was declared that the Registry had been irregularly kept and required examination and that for many years after our first taking possession of the Island the principal duty of keeping an account of the Lands, was entrusted to Natives.

84. It may then be readily imagined in what a confused and defective state the Books of the Office were delivered to me. No exertions on my part were ever able to arrange them, and it is remarkable that the important duty of measuring and defining the boundaries of Lands, has almost always been, and is even now, executed by a Native Surveyor, by whose loose and most probably inaccurate Report, the Collector has been obliged to be guided. It is true that on the 2nd of May, 1806, Mr. MacCarthy arrived from Bengal as Land Surveyor, but no attempt was ever made to correct according to his Surveys, the existing Grants, in all of which the dimensions of the Ground have been set down either by Estimate, or from the loose Report of a Native Land Measurer. Just before Mr. MacCarthy's arrival, however, having been directed, as Collector, to prepare a Statement of Lands given to individuals, I transmitted the same with an observation, that the Books in my Office, did not enable me to include one-half of the Grants that had actually been issued or made by the preceding Governments; and in my Letter on that occasion dated 16th April, 1806, I took occasion also to submit a review of our Landed Tenures; but as I afterwards incorporated its substance in a Minute which I recorded in Council on the 4th March, 1808, I shall not here notice it any further.

85. But almost every page of the Registry Book in the Collector's Office, until within the Month of August, 1819, shews, that Bills of Sale were registered without the necessary and intermediate title by Grant from the Company, with a reservation to them of Quit Rent, as Lords of the Soil; and hence I always expected that much embarrassment would arise whenever the Government desired to call in all Cutting and Measurement Papers, and to substitute regular Grants for them.

86. I may mention here also, that no regular *formula* having ever been established for a Bill of Sale, every Landholder has adopted the Form which appeared in his judgment most regular and safe; and the poorer proprietors have generally employed persons to draw out their Title Deeds, who can boast of no professional Education, or at least possess very little of the requisite knowledge in the Laws of Conveyancing. In fact many Transfers of Land have been made by a few lines on the back of the Grant only. On this subject Sir Ralph Rice observed:—

“ I am inclined to think, that no person should be permitted
“ to act as conveyancer, and to draw Deeds as to Lands without
“ the License of Government, and of the Court of Judicature.
“ They cannot practise in Court without a License, Government
“ may of course prohibit any persons from so doing who are
“ in their employ. If the Collector kept Forms of Deeds well
“ settled by him, I think Purchasers would be willing to employ

“such Collector for such a purpose in almost every case, and under the Instructions of the Government it might be executed better and cheaper by him than it is now done. The expense of Conveyancing on small property, is very heavy and checks the willingness to have correct Titles — individuals preferring leaving it to chance rather than incur any great immediate expense. Objections would, I know, be started to any compulsory or prohibitory clauses.”

87. The Government then hearing of the proposed Establishment of a British Court of Judicature on the Island, determined on staying all proceedings on the subject, until the arrival of the Recorder, whose professional opinion and advice on the numerous technical points of Law which embarrassed the question, were of course highly desirable. In the meantime, my Letter above cited, was transmitted to Mr. Dickens, the then Judge and Magistrate, who made the following very interesting observations on the subject to Mr. Dundas, in a Letter dated 24th May of the same year:—

“I would divide into four classes all the Tenants and Occupiers of Land at Prince of Wales’ Island, who hold the same without any regular Grant from the Government.”

“*1st Class.* — Should comprehend those who (prior to the period when Cutting Papers were issued) cleared Land under the verbal or implied promise of Mr. Light, and their Heirs and Assigns.”

“*2nd Class.* — Should comprehend those who (having received Cutting Papers) cleared the Land, but who did not receive Measuring Papers, or regular Grants of that Land, their Heirs and Assigns.”

“*3rd Class.* — Should comprehend those who received Cutting which they exchanged for Measuring Papers (the evidence that they had cleared the Land), but who have not received Grants of the land, their Heirs and Assigns.”

“*4th Class.* — Should comprehend all those not included in the preceding Classes.”

“It is my opinion that the justice of the case is the key to its policy, and it is manifest, that all persons who can establish their claims under the three first Classes, are entitled *ex debito justitiae* to a regular Grant. But I would recommend to the Government, (if they do issue Grants to these Occupiers) that excellent method which I have been informed Mr. MacDonald adopted, but which Sir George Leith (I know not why) discontinued, viz., to insert in each Grant an account of the person who first cleared the Land mentioned in that Grant, and of all the intermediate occupiers or tenants down to the Grantee in the Grant named.”*

“With respect to the fourth Class who (according to Mr. Phillips’ Statement) may be said to rest their Title on *general notoriety*, I cannot perceive the justice of admitting the claim

* NOTE. We have not seen that Mr. MacDonald ever did as here stated.

“ of every Tenant or Occupier of Land, merely because there is
“ no one who can shew a better Title; for in case such Tenant
“ has no legal or equitable Title, the Company appear to me to
“ be better entitled as Lords Paramount of the Land. To admit
“ a claim of Individuals to that extent would neither be *just* nor
“ *politic*, for it might cover frauds, violent or secret intrusion,
“ and any unjust decision of persons now absent from the Island.
“ As to a Title by prescription, according to the Laws of England,
“ sixty years is necessary; but this Island has not been inhabited
“ twenty years. What number of years then should be required
“ for a Title by Prescription at Prince of Wales' Island?”

“ Perhaps the claims of each Individual Claimant of the 4th
“ class, should be made to rest on the circumstances of each case;
“ and I think the Government should require each Tenant or
“ Claimant of the 4th Class to state on oath how he acquired the
“ actual possession of the Land for which he claims a Grant, and
“ who was his immediate Predecessor as Tenant or Occupier of
“ the Land? Justice and Policy may admit the Government to
“ relax from the rigour of the strict proof of Title in those who
“ claim under the modes of acquiring Title described in the three
“ first classes; for want of other proof, I would admit the oaths
“ of the Claimants, corroborated by circumstances, and the oaths
“ of one or more respectable persons. But of the Claimants who
“ claim as *Heirs*, each case must be referred to the equitable
“ discretion of Government, and if the Claimant claims as Assignee
“ under any Sale, I confess that in my opinion Justice and Policy
“ demand that the Assignment or Sale should, before the Establish-
“ ment of a Registry, be in writing, countersigned by Mr. Light,
“ and after that establishment that it should have been registered.
“ Adopt another rule, and you open a wide door for forgery and
“ fraud.”

“ The subject on which I have thus given my opinion is
“ exceedingly important when its magnitude is considered, for,
“ according to Mr. Phillips' Statement, half of all the Land granted
“ by all the former Governments, is held under the Gifts of the
“ Governors, *of which Gifts there are not any Official Documents.*
“ To determine on the rights of the four Classes who may claim
“ Grants, would be an office of great trust and difficulty, and
“ perhaps beyond the ability of one person having due regard to
“ the rights of the Company, as well as of Individuals. I think
“ Commissioners should be appointed with an Officer to take down
“ their proceedings, and they should have regular meetings and
“ adjournments, of which public notice should be previously given.
“ These Commissioners might receive claims, hear the allegations
“ in support of them, and shortly report their opinion with the
“ grounds on which it rests, for the ultimate decision of Govern-
“ ment; and Public Notice by Proclamation of Government might
“ be given, calling on all persons who claim Grants of Land,
“ to appear on or before the last day of the Meeting of the
“ Commissioners, which should be fixed at a certain place in
“ Prince of Wales' Island, or at some one or other of the days
“ for that purpose publicly announced by the Commissioners, to
“ substantiate by evidence, their rights to a Grant of the Land in
“ their occupation or possession; and further notice might be
“ given, that after a certain day to be fixed, all the Land in the

“Island, for which Grants had not been granted, would be resumed out of the hands of those occupiers who held the same without Grant, by the Government, for the use of the Company in default of a legal Tenant, as Lords Paramount of the Soil.”

88. On the 21st of July 1806, the Government reported to the Honorable Court:—

“In obedience to your Honorable Court’s Instructions, our early attention was paid to the state of cultivation on this Island, and to the Tenure upon which Grants have been issued to the present Occupiers and Proprietors of Land”.

“We have now the satisfaction of Transmitting the statement of Lands granted to Individuals alluded to in our Address of the 12th November, which, although it has been made out so far as the same can be at present prepared with any tolerable degree of accuracy, we regret it cannot be extended (from the causes stated in a letter from the Collector accompanying the Statement) beyond little more than one-half of the Lands actually bestowed on Individuals by different Governors”.

“As the different Tenures by which Lands on this Island are at present sold, transferred, and cultivated, either on general notoriety, on Measurement or Cutting Papers, or on Grants, are fully and correctly detailed in the Letter above alluded to, we deem it unnecessary here to repeat them; at the same time referring your Honorable Court to this Letter as containing much useful and interesting information on this important subject”.

“We cannot, however, omit calling your more particular attention to the concluding Paragraph of the Collector’s Letter, in which he states, that applications are daily made to him for regular Grants in lieu of the Papers formerly granted to clearers, and requests our serious consideration of their claims”.

“It is with much concern, we have not been able to record on our Proceedings any measures as directed to be adopted to prevent the dangerous consequences that arise from the want of proper regulations on this head being immediately passed. We waited with anxiety for the Ships from Europe in the confident hope of the assistance of regular constituted Law Authority, without which it is impossible that the various claims of the Landholders, involved as they are in so many intricacies, can be considered and decided upon with that exactness and equity a subject of this nature so justly demands”.

“In this expectation, however, we have been disappointed, and being of opinion, after the most mature consideration, that an interference, on our part, without such assistance, might, notwithstanding every exertion to the contrary, only tend, as the efforts of some of our Predecessors, perhaps equally zealous in the case, to increase the difficulties of eventually making some general arrangements, we felt ourselves under the necessity of postponing any decision until the arrival of the expected legal Authority or until the pleasure of your Honorable Court shall be made known in answer to this our reference on this subject.”

89. On the 8th January, 1807, the Honorable Court again wrote out:—

“ On the completion of the Survey intended to be made of the Island, we shall be enable to form a more correct opinion of the state of its cultivation. With respect to Grants of Lands to Individuals, we are much surprised to find by the 66th Paragraph of the Letter to which we are now replying, that the Lands already granted are considered as Freeholds, and that the Grants do not contain any clause entitling the Company to resume such as remain waste or uncultivated; in which state it appears considerable tracts at this time continue”.

“ By Appendix No. 14 of the late Lieutenant-Governor's Report of the state of the Island on delivering up charge of it to the present Government, we find it absolutely stated, that the Company's right of resumption on paying a charge of 5 Dollars per Orlong to the clearer, has been reserved. We therefore direct the subject be more particularly enquired into.”

90. To which the Government replied thus on the 28th January, 1808:—

“ In reply to these Paragraphs, we beg leave to refer your Honorable Court to the 13th, and following Paragraphs of the Letter from this Government in the Public Department, dated the 31st July, 1806, wherein you were informed of the different Tenures on which Lands were held on this Island, the right of resumption being only applicable to such Lands as were held under Cutting Papers, the Document furnished to the Original Clearer, but which becomes cancelled on the subsequent issue of Grants.”

“Not having received any reply from your Honorable Court on this subject, and still labouring under the want of the necessary legal assistance in consequence of the non-arrival of the Recorder, we have not been able to take any further measures towards removing the difficulties complained of, and which in so material a degree tend to check the cultivation and rising prosperity of this Island.”

91. On the 4th of March, 1808, soon after I had the honor of being promoted to a Seat in Council, I addressed the Board on the subject in a Minute, to the whole of which I must refer the Board, and from which I beg to cite here a few passages only, as the observations contained in them apply precisely to the present state of our Lands and Landed Tenures. I regret to add to them, that although since they were recorded, large Sums of Money have been expended by the Government in surveying the different Districts of the Island, none of the Measurements were adopted, or ever required to be adopted by the Proprietors of the Lands, and the greatest confusion and difference still exists between the dimensions and boundaries reported by Mr. MacCarthy, and those set down in the Grants or Measurement and Cutting Papers issued by the Government, to different Individuals. There seems to have been some fatality attending the Survey of the Island, for no complete one has ever been made, and no attempt to fix the precise limits of each Individual, has yet been executed. The Government also having never formally put a stop to Mr. Light's

general permission to clear and occupy Lands, and never having been able, from the want of a correct general Survey, to check the operation of that principle of Occupancy always acted upon by the Natives of Malayan Countries, and recognized by European Nations at new Settlements, many persons still continue to seize and cultivate Lands that may be in the primitive state of Forest, or that may have been neglected by the Original Proprietors. My Minute alluded to, however states:—

“As the License to cut Jungle has been considered an absolute pledge from Government to the clearer, of securing to him and his Heirs the property in perpetuity, without any claim or resumption, it has been sold and transferred from one Individual to another on the authority and security alone of such License. Title, termed “Grants” for Lands within the limits of George Town, exists at this day, bearing date in 1789, and giving to the Holder and his Heirs, the Premises in perpetuity and similar Grants for Lands throughout the Island have been issued by successive local Governments, from time to time, until the arrival of the present Establishment of a Governor and Council, on the 20th September 1805, since which, no new portions of Land have been allotted, nor even grants issued. Prior to the 20th September, the Grants issued are in number 1,756, and describe a space of 8,817 Orlongs; but there are large tracts of Country more than equal to the Granted Lands that have been both cleared and cultivated for many years, without such Title having as yet been issued to the clearer or occupier.”

“Orders were given by the Supreme Government that from the 1st January, 1795, the Jungle should not be given to Clearers in perpetuity, but for the period of five years only: no one applying for Lands on these terms, the Order was rescinded in January, 1797, and subsequently to that date permission to cut Jungle has been granted as prior to 1795, with the exception of a Clause in the License giving the right of resumption to Government, after the ground should have been cleared, on paying the clearer at the rate of 5 Dollars per Orlong. This right has, I understand, in no instance been enforced hitherto, and as much of the Land cleared on these terms, has been for several years covered with Pepper Vines and other valuable Cultivation, the occupiers deem themselves to hold a prescriptive right in the Soil, particularly as Sales have been sanctioned thereon, and Duties paid to Government on their Registry. The Clause itself at the present period is generally considered nugatory by the Occupier”.

“Lands are held on *general notoriety*, on ‘*Cutting Papers*,’ on *Measurement Papers*, and on ‘*Grants*,’ in each of which predicaments Transfers have been made with the knowledge and sanction of the different Governments, as evidenced by the Registry of Sales.”

92. The Honorable the Recorder, Sir Edmund Stanley, arrived in June, 1808, when the Court of Judicature was established. There came with him, however, no respectable Lawyer to practise at the Bar, nor any Law Officers appointed on the behalf of the Government, and the Board could procure no professional Advice respecting the

numerous questions affecting our Landed Tenures but from Sir Edmund Stanley himself, between whom and the Government, most unfortunately, a schism soon took place. The Board then determined to await the arrival of fresh Instructions from the Honorable Court. When these arrived in a Dispatch of the 28th April 1809, (which I shall hereafter cite) the departure of Colonel Macalister and daily expected arrival of Mr. Bruce, induced the Board to make a further postponement, stating to the Honorable Court, in the meantime, in a letter dated 15th March, 1810:—

“ Being in the daily expectation of the arrival of the Gentle-
 “ man who may be appointed to take charge of this Government,
 “ we have deemed it advisable to defer the consideration of this
 “ highly important subject, until aided by his advice and assistance
 “ in the adoption of the measures proper to be taken in consequence
 “ of your Commands before us.”

93. Mr. Bruce's death so shortly after his arrival, and Mr. Petrie's weakly state of health, precluded the Government from adopting any decided course with respect to this complicated question. But during Mr. Petrie's Government, the two following Proclamations were issued, announcing the determination of the Board to resume possession on behalf of the Company of those Grants of Land for which the Proprietors might neglect to discharge the arrears due for Quit Rent within a certain period:—

PROCLAMATION.

“ It having come to the knowledge of the Honorable the
 “ Governor in Council that the Proprietors of Ground in several
 “ of the Districts of the Island, have refused or neglected to
 “ pay the Amount of Quit Rent due thereon, agreeably to the
 “ terms of the Grants on which their properties are respectively
 “ held, Public Notice is hereby given that should the Arrears
 “ of Quit Rent at present due by Individuals not be actually
 “ discharged on or before the 30th of April next ensuing, either
 “ by the Individuals themselves at the Collector's Office or on
 “ the presentation of Bills for the Amount of each, the respective
 “ Properties will be considered as having reverted to the possession
 “ of the Company, and the several Grants for the same cancelled.”

Published by Order, &c.,

W. A. CLUBLEY,
Secretary to Government.

FORT CORNWALLIS, }
 16th December, 1813. }

GOVERNMENT ORDERS.

FORT CORNWALLIS, 2ND AUGUST, 1814.

“ The Honorable the Governor in Council having considered
 “ that the period within which it was determined by the Advertise-

“ment of the 16th December last, that the Arrears of Quit Rent
 “due by Individuals should be discharged on penalty of a for-
 “feiture of the several Grants of Land for which the arrears
 “were due, was too limited, by reason of the absence from the
 “Island of many of the Individuals, Proprietors thereof, is pleased
 “to direct, that in lieu of the 30th April last, the period be now
 “extended to the 1st January ensuing.

By Order, &c.,

(Signed) W. A. CLUBLEY,
Secretary to Government.

94. No steps were taken to follow up the above Proclamations, until the 4th October, 1817, when the opinion of Mr. Duff, the then Company's Law Officer, was notified, that:—

“Government is authorized by Law, to distrain the Property, *even if the Landholder be absent*, on failure of the arrears of Quit Rent being discharged.”

Upon this opinion, and on the principle that the present Proprietors of Land were responsible to Government for whatever arrears of Quit Rent might be due thereon, having purchased the Land with all its encumbrances, Colonel Bannerman proposed in his Minute of the 12th June, 1818, that the Superintendents of the Company's Law Suits should be authorized to apply to the Court of Judicature to enforce the payment of all arrears.

95. An amicable Suit was accordingly instituted for arrears of Quit Rent against the greatest Landholder on the Island, Mr. David Brown, and it was decided by the Court of Judicature against the Company on the following Grounds, which Sir Ralph Rice has done me the favor to communicate to me:—

Sic. orig. “The Company lost their Action against Mr. Brown on a
 “presumption of Law. They went for ten years (say) arrears
 “of Quit Rent, and proved the Defendant in possession, or those
 “under whom he claimed, Mr. Brown produced the Receipts
 “of Government for the last two years. The Law presumed,
 “that the Rent for the previous years had been satisfied and the
 “Company not being able to rebut that presumption, in conse-
 “quence, as it was said, of the death of their Collector, did not
 “obtain a Judgment, no doubt was entertained whether the
 “*person in person* was liable for arrears, even though they had
 “occurred, while the Land was held by previous Grantees or
 “Assignees.”

96. We have already seen that the Grants contain no clause requiring the Grantee to pay the Quit Rent at stated periods, or subjecting the omission to a Penalty. Neither Mr. Light, nor Mr. Manington, ever appear to have levied any Quit Rent; and the first notice on the Records of any collection on this account is in the Year 1795-96, nearly ten years after Grants had begun to be issued. This circumstance, joined to the defective state of the early Records in the Collector's Office, and the want of a correct Survey of the Lands always rendered the collection of the Annual Quit Rents a source of

the greatest difficulty. If the Government had, from the first year that Grants were issued, annually collected their Quit Rents, and if, as soon as the Tax had been imposed on alienations they had regularly collected the duty, and insisted on the registration of Deeds and Wills, the confusion which now exists with respect to every thing connected with our Lands, would never have arisen. Before, therefore, we can effect any permanent Settlement, we must come to some resolution respecting the heavy arrears of our Quit Rent, which amount, according to the accompanying Report from the Accountant's Office, to 6,585 Dollars. I think we should adopt a compromise of the same nature as that entered into by the late Governor with Mr. Brown, after the Court of Judicature had decided, the abovementioned Suit against the Company. We should abandon all Quit Rents due by prior holders of Lands, on condition of the Quit Rent which has accrued during the tenancy of the person now entitled, being discharged. We should give public notice of such our determination, with respect to the Arrears of the Registry Duties, as well as those of Quit Rents.

97. In consequence, however, of the decision of the Court of Judicature, Colonel Bannerman establish the following Form, containing a very useful Clause regarding the payment of Quit Rents, for all future Grants of Land:—

SOONGHY CLUAN DISTRICT.

“ The Honorable the Governor in Council of Prince of Wales’
 “ Island, doth hereby give and grant unto David Brown, and
 “ his Heirs for ever a piece of Ground situated in the District
 “ of Soonghy Cluan, bounded to the Eastward by his own Ground,
 “ and measuring on that side two Orlongs twelve Jumbas, bounded
 “ to the Westward also by his own Ground, and measuring on
 “ that side two Orlongs fourteen Jumbas, bounded to the North-
 “ ward by a Road called Betelnut Lane, and measuring along
 “ that Road four Orlongs six Jumbas, bounded to the Southward
 “ by the ARRA River, and measuring along that River, four
 “ Orlongs ten Jumbas, estimated to contain twelve Orlongs six
 “ Jumbas, with full and sufficient powers to him or them to sell,
 “ assign, and dispose of the same as to him or them may seem
 “ proper, subject, however, from the date hereof, to an Annual
 “ Quit Rent of two Copongs for every Orlong, to be annually
 “ paid by him or them at the Office of the Collector of Customs
 “ and Land Revenues for the time being, or such other Public
 “ Officer as the Government for the time being may direct to
 “ receive the same, on failure of which Annual payment being
 “ duly made, this Grant to be null and void, and the Ground
 “ to revert to the Honorable Company.



“ Given under the Seal of the Honor-
 “ able the East India Company, at Fort
 “ Cornwallis, on Prince of Wales’ Island,
 “ and the Signature of the Secretary to
 “ Government by Order of the Honorable
 “ the Governor in Council, this first day
 “ of October, in the year of Our Lord
 “ one thousand eight hundred and eigh-
 “ teen.”

(Signed) W. A. CLUBLEY,
Secretary to Government.

“Registered by Order of
 “ the Honorable the Governor
 “ in Council, No. 1759, this
 “ first day of October, 1818.”

(Sd.) W. E. PHILLIPS,
Collector.

In the 122nd Paragraph of our General Letter to the Honorable Court, dated 3rd April, 1818, he further signified his intention of bringing the subject in a detailed form before the Board, as soon as possible. His diversion, however, shortly after, to other important Political Questions, prevented him from doing so.

98. In 1814, regular Grants of Land began again to be given, }
 Vide Appendix No. 4. } but only fifty-two have been issued since the
 } establishment of the present form of Govern-
 } ment. Their tenor and form are precisely the same as those of the
 } preceding Superintendents, with the exception of thirty-four, which
 } have been issued since 1818, with Governor Bannerman’s Clause
 } enforcing a regular payment of the Quit Rent.

99. The Quit Rent realized during the same period from 1806-7 }
 Vide Appendix No. 5. } to 1822-23 inclusive, amounts to Dollars
 } 23,668, 28 Pice.

100. Before the Board proceeds to the consideration of the Honorable Court’s Instructions of the 28th April, 1809, I request its attention to the following Historical Review, and progressive rise of our

EUROPEAN COLONIZATION.

101. In Mr. Light’s Letter of instructions from the Supreme Government, dated 2nd May, 1786, he was informed before leaving Bengal:—

“ We authorize you to receive all persons wishing to settle
 “ under our protection, and we direct that you furnish us with
 “ a plan for the internal Government and Police of the Island.
 “ You will be particular in your Advices respecting the number
 “ of the Inhabitants and their increase.”

102. He was again told, as we have seen above, on the 22nd January, 1787, in reply to his communication that Captain Scott (who had no License from the India Company to reside within the

limits of their Charter) and Captain Glass (the Officer in Command of the Troops) had applied for Grants of Land:—

“ We leave it to your discretion to receive such Colonists
 “ as you may think it safe and advisable to admit, and to give
 “ to each family such portion of Land as circumstances may
 “ allow, and you may judge expedient.”

103. We cannot therefore find that any restrictions or limitations were applied to Europeans settling and possessing Land on the first formation of this Settlement; but on the contrary we may conclude, that in the anxiety of the Supreme Government, and in the eagerness of Mr. Light to improve and populate their infant Colony, encouragement without reservation was held out to settlers of every description, and none of the prohibitions which the Bengal Regulation XXXVIII A.D., 1793, enacted against Europeans holding Land at that Presidency, were ever ordered to be adopted here.

104. Mr. Light, however, did propose to the Supreme Government, I find by a letter on record, dated 10th February, 1790, the following Rules with respect to Europeans settling on the Island:—

“ If Europeans settled on the Island are permitted to make
 “ Plantations, they will require Grants. A License must be first
 “ obtained from the Governor-General in Council, which may be
 “ given in the name of their Children, or under certain restrictions
 “ that the Land shall pay the Tax equal to the Lands of other
 “ Proprietors, that they shall not sell or transfer their property
 “ in this Land to any other European without License from the
 “ Governor-General in Council. No person to hold above a
 “ certain quantity, and upon admission to take the Oath of
 “ Allegiance.”

105. The Grant No. 8, before quoted, proves that Mr. Light issued regular Grants of Lands to Europeans, without any obligation or reservation, long before the date of the above letter, and the preceding passages shew that no Document of any kind is on record in which any Clauses appear restricting Europeans to a given quantity, or regulating the Sale and Transfer of their Landed Property. We have also seen by the Extract from the Supreme Government's Letter to the Honorable Court of the 2nd November, 1795, “that the Population of the Island consisting of subjects of various Countries, exceeds 20,000, and that a considerable tract of Land has been cultivated under a promise by the late Superintendent of perpetual possession.”

106. But to shew the extraordinary exertions Mr. Light made to increase the number of Settlers in the first instance, the following Extract from a letter he addressed to the Governor-General, on the 5th December, 1790, may be cited:—

“ I think myself justified in requesting our strength may be
 “ increased to four complete Companies, and in order to render
 “ this as beneficial to the Settlement as possible, I recommend
 “ two Companies of Sepoys to be sent to relieve two of those
 “ which are here at present, *the greater part of these will prefer*
 “ *remaining as Ryots rather than return to Bengal*, they only
 “ require their families to be sent to them; and as many as are

“ necessary may be picked out to complete the Supernumerary Company (for which one European Officer will be required). Thus a number of useful Farmers will be obtained, whose fidelity may be better relied on than the Malays, who are not yet accustomed to European Governments. They have stock sufficient to begin with, *and many of them have already portions of Land and Cattle.*”

107. We may refer to Mr. MacDonald’s proceedings for much information on this subject, although it is necessary to premise that his remarks on European Settlers must be received with considerable caution, as they appear to be much colored by a feeling of personal hostility towards the then European Inhabitants, who kept him in a constant state of warfare and altercation.

108. In a Letter to the Governor-General, on the 7th July, 1796, he states:—

“ The Letter from the House of Scott, gives me an opportunity of mentioning a grievance which bears hard upon the improvement of this Island. Mr. Light extremely zealous to increase the Population, gave encouragement to every class and description of people to become Candidates for Lands. The number was considered; not the quality. Country Captains, who constantly resorted to his House, were ambitious of becoming Men of Landed Estates at no expense, and many actually got Grants with a view of providing in that way for Native Women who accompanied them in their voyage. Gentlemen settled upon the Island, and Mr. Light at their head, cleared, and some of them improved Lands for the same purpose. Those Lands, the finest on the North end of the Island, became in a few years the property of these women, and their posthumous (*sic*) Children; and so tenacious were some as even to entail the property (as in the instance of Mr. Light’s Will) upon the posthumous (*sic*) Children in such an event not to be sold or divided until the youngest should come of age. This has been a very great drawback upon the prosperity of the Island. Large Tracts of Ground lie totally waste returning fast to that state of Jungle from which they were recovered at considerable expense.”

109. It would certainly be advantageous and convenient could the Company, as the Lords of the Soil, resume all Lands which have never been cleared, or which have been altogether abandoned by the first Owners, whether such were given to them on regular Grants, Cutting Papers, or in virtue of any other authority; and I find Captain Kyd, in his Report of the 20th August, 1790, recommended, even at that period, to the Supreme Government, “that the Superintendent should have the power of resuming Grants of Land from those who appear to shew no desire of bringing them into cultivation.” To prevent such engrossing of uncultivated Lands in America, we learn a Colony Law existed there, which imposed upon every Proprietor the obligation of improving and cultivating, within a limited time, a certain proportion of his Lands, and which in case of failure, declared those neglected Lands grantable to any other person.

110. On this point, Sir Ralph Rice, observes to me:—

“I think the Company should not be deterred from taking possession of, and of re-granting any waste spot abandoned by the owner, uncultivated, and with Quit Rent in Arrear, by the fear lest some one should hereafter start up and claim such premises, grounding his claim on Grant, Measurement Paper, or Cutting Paper, or former occupancy. The three latter would not avail him, and Equity would, I think, relieve against any serious loss in the case of a dormant Grant. Besides, I am inclined to think that the non-payment of Quit Rent would operate a forfeiture and give the Company a right of re-entry, though of course, like all forfeitures, which are odious in Law. it might be relieved against in Equity.”

111. To return to Mr. MacDonald, in his Letter to the Supreme Government, dated 28th of August, 1797, he proposes that the Grant in perpetuity to each European of Character, should not exceed 50 acres, and—

“On the death of each European Proprietor previous to a given period at which the Island be supposed to have made a sufficient progress to enable it to bear a partial halt to its improvement, his Estate to be sold at Public Outcry, and the produce paid to his Executors. After that date to be permitted to go by Bequest, provided to full blood.”

112. In his observations on Mr. Younge's representations, he further states in August, 1797:—

“The wanton manner in which Europeans on speculations of its future value, have seized upon, or acquired by trifling purchases, extensive Tracts of our finest Lands should be checked, and a strict scrutiny instituted on their Claims. While our population, I mean the valuable labouring part, continues near its present standard, the bad effects may not be left.

“For these weighty reasons, I would entreat Government to order an exact Survey of the quantity of Lands at present held by Europeans, the proportion already under cultivation, and the amount of that in which they would engage, under penalty of forfeiture, to lay out an Annual Sum upon improvements, all the residue to be purchased by the Company at a fair Estimate, or to be put up at Public Vendue.”

113. The Board has seen, that Mr. MacDonald proceeded to Madras to submit certain propositions to the Governor-General with respect to the Landed Tenures, and that none of his Grants shew that any restrictions on Europeans settling and occupying Landed, were ever carried into effect by him.

114. But, if we refer to the Estimate of Lands cleared and granted, which Mr. MacDonald transmitted to the Supreme Government in 1797, we shall observe, that out of 5,152 Orlongs, 1,477 were then held by Europeans, and the Proceedings of that year further shew, that when the Supreme Government directed Mr. MacDonald to call upon the European Inhabitant to specify the authority under which they resided in India, only three, out of fifteen, could prove a regular

express License from the Honorable Court of Directors, or other authority.

115. On this subject also, Mr. Acting Superintendent Caunter, states to the Vice President in Council, on the 16th July, 1799:—

“How far it would be prudent to allow settlers, particularly Europeans, to become Proprietors of Lands indefinitely, in point of quantity, I leave to your Excellency’s better judgment to determine; but, if I might be allowed to give an opinion, no Settler should be permitted to hold above a certain quantity, without the express sanction of Government. From the extraordinary increase in cultivation within the last two or three years, Land is increasing every day in value.”

116. Neither of the Lieutenant-Governor appear to have touched on the question of Europeans settling on the Island, or as the Board has seen, inserted in the Grants they issued, any restrictive clauses with respect to European Proprietors of Land.

117. But on the arrival of the new Government, the Honorable Court of Directors observed in their first Instructions, dated 18th April, 1805:—

“There is reason to apprehend that some Europeans have in a wanton manner seized upon, or acquired by trifling purchases, extensive Tracts of the finest Lands. The most effectual check should be given to practices of this nature, and you will endeavour to ascertain the quantity of Lands held by Europeans, and under what title, for the purpose of considering of the propriety of resuming such as may have been transferred or acquired by Europeans, without the Bills of Sale having been registered, or the Company’s Duty paid, according to the established Regulations of the Island.”

“At least, all future Grants of Land to Europeans, must be made subject to our approbation, and instead of being granted in perpetuity, they should be granted on Long Leases, renewable on a certain fine, and on payment of a certain Quit Rent increasing with the increase of cultivation, and a fine on their being transferred; it being our determination, that no European, resident in Europe, shall hold Lands by Agent, and it must be a condition in the Lease, that it shall not be obligatory on the Company to permit the relations in Europe of Europeans who may die possessed of Lands, to go out in order to succeed to them. It must likewise be a condition of the Grant that no large Trees, applicable to the purposes of ship-building shall be cut down except for those purposes; that the Company shall have the power of resuming such portions thereof as it may be deemed necessary to convert to public purposes; or such as may be found to retain mines of any description whatever. No Grants of Lands to be made to Europeans exceeding in quantity 300 Orlongs, unless upon very special reasons stated to us, and approved by us. To encourage the clearing and cultivation of the Island, by making small Grants of Lands to industrious Chinese, would be a most desirable object.”

118. The Board have seen that all Grants which Europeans already possessed were given in perpetuity, and contained no restriction or obligation, and that Mr. Farquhar observed in his Report in 1805, the mode in which all property is held, has by prescription, and the orders of the Supreme Government in India, derived a legality which must be recognized by whatever Code of Laws may be ultimately established for this Island.

119. The question therefore was most embarrassing to the new Government, as the restrictive Orders of the Honorable Court could not easily be applied to the Grants which Europeans then held, and which included the greater portion of the Landed Property of the Island. This was the principal motive which induced them to stay proceedings until the arrival of the Recorder. The Honorable Court was therefore advised on the 12th November 1805:—

“ Many Europeans have gradually acquired considerable Landed Estates on the Island; a particular statement of the Lands so held, shall be transmitted to your Honorable Court as soon as the same can be done with any tolerable degree of accuracy; but we can hardly suppose, that any European will hold Lands under a Title that will not be considered valid by the general usage of the Island, being the only terms on which property is now held.”

“ We have already stated that Lands now in possession, were considered a freehold, but we shall strictly attend to your Orders in these Paragraphs in respect to any future Grants that may be made.”

120. In the years 1809, the Government issued an Advertisement requiring all European Settlers to state the Authority under which they resided within the limits of the Company's Charter; and, as had occurred during Mr. MacDonald's Administrations only one or two out of all the European Inhabitants could shew a regular License. Those who could not, defended their right of residency on the Island, on the plea of having become Proprietors of the soil by permission of the Government. I quote the arguments, used on this head by two Gentlemen who have since died:—

No.	Name.	Nation.	Profession.	By what permission residing within the limits of the Company's exclusive Trade.
10	John Dunbar	Great Britain.	Cultivator of the Soil.	“ By the permission of the Honorable United Company of Merchants

“ of England trading to the East Indies, irrevocably granted to me and my Heirs, by certain Deeds under their Common Seal, signed by the Lieutenant-Governor of Prince of Wales' Island, acting under the Authority of His Excellency the Governor-General in Council at Fort William, by which Deeds several portions of Land have been granted to me and my Heirs for ever.”

“ And I most respectfully submit to the Honorable the Governor and Council, that permission to reside on the Island, thus granted, is inseparably annexed to my person, as the Grantee of these Lands, unless driven therefrom by the sentence of the Law.”

18	James Scott	British	A Planter.
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“ In addition to what I stated in my Letter of the 11th instant, permit me to draw the attention of Government to certain peculiarities in my situation, in doing what, I am actuated by no other motives than a simple exposition of the rights which I conceive these peculiarities convey.”

“ It has uniformly been my opinion, that it would be better that the rights conveyed by Grants of Lands here should have been dormant until a renewal of the Honorable Company’s present Charter; but as the Government Advertisement places me in the predicament of foregoing or asserting these rights, I beg leave, with all deference, to state, for the information of the Honorable the Governor and Council, the rights which I conceive these Grants convey to me, as Landholder, whether by Grant or Purchase:—

“ *1st.*—As the Grants are Given under the Company’s Great Seal, they must be binding on the Company to the extent therein narrated.”

“ *2nd.*—The exclusive right and privileges of the Company are secured to them by sundry Acts and Charters, but these * Sic orig. “ Acts and Charters do not impede, are *so inclined.*”

“ *3rd.*—The holders of Grants seem generally to consider such Grants as a gratuitous indulgence, which the peculiarity of situation rendered necessary after other expedients were found unsuccessful. In giving such Grants, the East India Company have relinquished certain privileges previously secured to them by Acts and Charters; but neither gratuitous Gift on the part of the Company, nor acceptance of such indulgence on my part, can infringe any Act or Charter existing.”

“ *4th.*—If then the Honorable Company have gratuitously relinquished certain exclusive rights and privileges in my favour and that I, relying thereon, have expended large sums in the cultivation of the Lands described, on the extent of which, the Company levies a Quit Rent, and on the produce a Duty, the Honorable Company cannot in justice plead their exclusive rights and privileges as *data* whereon to annul or invalidate the indulgence given, because giving Grants of Lands to me and my Heirs in perpetuity would be nugatory, unless such Gift allowed of my residence in order to attend and cultivate the Landed Property they describe.”

“ *5th.*—On these premises, I consider the Grant of Lands to me and my Heirs in perpetuity, on paying to the Honorable

“Company a Quit Rent, as an unconditional License to me and my Heirs to reside and manage the Lands so described.”

“6th.—Should the Honorable the Governor and Council differ with me in opinion, and notwithstanding what I have herein stated, call on me to take a Planter’s Indentures, or abide by the Penalties, as if no indulgence had been awarded to me by the Honorable Company, I can have no hesitation in accepting of such Planter’s Indentures, provided I am permitted to declare, that by such acceptance, I invalidate no rights or claims I previously was in possession of.”

121. In transmitting these returns the Government represented to the Honorable Court on the 4th of February, 1809:—

“We also forward for your information. Copy of the Returns sent in by the European Residents on this Island, in consequence of an Advertisement issued by us directing them severally to state the Authority under which they resided within the limits of the Company’s Exclusive Trade.”

“By these Returns your Honorable Court will perceive, that nearly the whole of the Europeans here resident, are persons not possessing the express License of the East India Company, or their Governments in India, to reside within the Company’s limits; and in conformity to the tenor of your original Instructions to this Government, we should have required such as appeared well disposed and useful Settlers to enter into the usual Covenants, until your Honorable Court’s further pleasure was known, had we not been aware that many would have objected to bind themselves by such Covenant on the plea, that by the possession of Grants of Lands from the former Governors of this Island to them their Heirs for ever permission to reside on such Lands was inseparably annexed to their persons as the Grantees of those Lands, and that they would not be driven therefrom except by sentence of the Law.”

“A determination on the part of the European Inhabitants to insist on this right of residing on their Lands so granted, without further permission of the Court of Directors, or their Governments in India, is manifested by the assertion of such right in the Returns sent in, as well as the general spirit of opposition that has too frequently been shewn to the orders of this Government, on whom they do not feel themselves dependent; and although we are fully aware of the necessity of supporting the privileges of the Company as by Law established, and in this instance particularly brought to our notice by Your Honorable Court’s Orders, and are inclined to believe, that the right now assumed by the Landholders, will not bear the test of legal investigation, considering the infringement of the Law made by them in the first instance in having resided in the East Indies without permission from the East India Company, and the apparent want of authority in any Superintendent or Lieutenant-Governor to confer such right, as no such Document has yet been traced on the Records of this Island, yet under the circumstance of the importance of the subject, we have deemed it advisable not to take any further steps therein until

“ we shall be in possession of Your Honorable Court’s more positive Orders.”

“ You have already been advised in the former Dispatch from this Government, of the various Tenures on which Lands are held here, and we have now the honor to transmit in the Packet, the Form of the Grants formerly issued and on which the Holders now assume the right of residence, in order that Your Honorable Court may be better enabled to take professional Advice in Europe on the measures best to be adopted on its being ascertained whether the asserted right is actually conveyed by such Instrument; and if so, whether the Act of the former Governments of this Island, is in this instance binding on the Honorable Company.”

“ At the same time that we deferred taking any decisive measures with regard to the Europeans here resident, we most earnestly solicit Your Honorable Court’s early attention to the subject, as involving to a considerable extent the long established privileges of the Company, and materially affecting the prosperity of this Island and the Authority of its Government.”

“ Formed as the Community of this Island has been by settlers of all characters, and from all quarters, it is with difficulty that due subordination so essentially necessary in an insulated and distant Settlement, can be enforced, and unless the Arm of Government is considered strong enough to effect the removal of the contumacious and turbulent, if extraordinary occasion should require it, due obedience cannot be expected, the majority of the Inhabitants acting from a sense of their interior independence of the Company, founded on the above assumed right, do not consider themselves, from not being liable to the penalties of the Act of the 33rd Geo. III. Chap. 52 respecting unlicensed persons, bound to pay that respect to a Government not armed with those powers with which your other Governments in India are invested, and which, in the opinion of Your Honorable Court, were equally vested to us.”

122. In the Honorable Court’s additional Instructions of 28th April, 1809, they notice our European Colonists as follows:—

“ The permission to make new Grants to Europeans of 300 Orlongs at once, seems to us now unnecessarily large. It will be better to limit the Grants to such a quantity of Land as is likely to be cleared in a moderate time, and to make new Grants as required for further clearance. On full consideration of the present state of the Island, we retract the Orders contained in the 58th Paragraph of our Letter of the 18th April, 1805, enjoining, that Europeans shall have only Leases of Land. We permit them to hold Grants on the same Tenure as other settlers, but adhere to our determination that these Grants shall contain a proviso that no Europeans shall be entitled to proceed from Europe to take possession of Lands devolving to them there.”

123. No further notice of the subject was taken, until my predecessor introduced the following observations in the General Letter to the Honorable Court of the 3rd April, 1818:—

“Our President being well aware of the sentiments of Your Honorable Court on the subject of unlicensed persons residing in India, deemed it his duty to call for a Special List of the European Inhabitants of this Island, and we now have the honor to transmit the same to Your Honorable Court. In this List will be observed the names of several Gentlemen of great worth and respectability, who do not possess any License from the Honorable Court or other Authority, but who have however resided at this Settlement for many years, and to whose exertions much of its prosperity may certainly be ascribed. It is very far from our wish or intention to put these to the smallest inconvenience; but as an extraordinary opinion prevails and is asserted here, that the Grants of Lands in perpetuity to European Residents on this Island necessarily exempt them from the provisions of the Act of Parliament against unlicensed Europeans residing in India, it becomes our bounded duty to apprise your Honorable Court of this circumstance, and to solicit your deliberate and early attention to a question of such great political importance. It need not be pointed out to your Honorable Court, that in the event of such a plea, founded on a proprietary right of the Soil, being admitted as valid, any European, however obnoxious, could resort to this Island, purchase a Grant of Land, and set at defiance all the wise restrictions of the Legislature in respect to European Residents in India.”

“We shall transmit a number in the Packet, a Copy of the Return made by four of the Gentlemen who were at this Presidency when a Public Call was made by this Government in 1808, on all Europeans, not in the Service to state the Authority by which they were in India. These Documents will shew the absolute necessity we are under of submitting the subject for the determination of the Honorable Court.”

“With this we shall send a Copy of the three several Tenures by which Lands are held on the Island, and on which these Gentlemen assume their plea of right to reside here, and, as one of them has particularly stated, unless driven therefrom by the Sentence of the Law.”

“We have also the honor to transmit a Copy of the Authority of the Supreme Government, by virtue of which the Grants of Lands on this Island are stated to be given; and we feel it proper to add, that Messieurs Brown and Carnegie, are now the most respectable and principle Merchants on the Island, and that the former is the most extensive Landholder, European or Native. Our President has signified his intention of bringing this subject in a detailed form before the Board as soon as possible.”

124. The East India Charter Acts regulate the resort and residence of Europeans in India, without reference to the question of such being Landed Proprietors, or not, and the right of residence

claimed by our Landholders is founded on the Common Law of England, which, perhaps, cannot be pleaded in bar of any pains or penalties that have been unconditionally and specially attached by the 33rd and 53rd of our late King, to certain Acts done in India. But the liberty which has been allowed from the first occupation of the Island under the Authority of the Supreme Government, and without restriction or condition, to Europeans to purchase and possess Lands, is, and must be considered by British Laws, tantamount, to all intents and purposes, to an express License from the local Government to reside here. The Indian Governments have always possessed the power of giving License to Individuals to reside within the limits of the Company's Charter, subject to the confirmation of the Honorable Court of Directors and that Authority, after being aware of the nature of our Lands, have, as we have before seen, expressly extended their permission to Europeans to hold such on the same tenure as other settlers, with the exception of a *proviso* restricting the inheritance. While, therefore, we cannot infringe on, or abrogate the rights and privileges enjoyed by our European Inhabitants, in virtue of their Grants, it is every way our duty and policy to endeavour to regulate and prevent their abuse, to give confidence and fair support to that class of our population, who have been the most useful and active instruments in raising this Settlement to its *present flourishing* state, and who are, and have ever been the most extensive and beneficial cultivators of our soil. The system of giving Land on Leases which was at an early date desired by the Supreme Government and latterly by the Court of Directors, cannot well be introduced at a place where Land is a superabundant commodity, and hardly any such thing as Rent has yet been created. European Colonists have hitherto always refused to accept of Land on such terms. But, after all, objections to colonization in a small and insulated settlement like Penang, where also there are no Original Native Inhabitants, do not appear to me to possess the same force and importance as at our Settlements in British India. Nos. 2, 3 and 4, in the Appendix will shew the number of Cutting and Measurement Papers, and Grants issued, and No. 6, the quantity of Lands (9,569 Orlongs) given in perpetuity to Europeans and Natives respectively at this Island, as shewn by the Books in the Collector's Office only.

125. Since writing the above, the Honorable Court in the Despatch under date the 23rd of January last, has thought proper to grant an express License to our European Landholders, referring the Government to the Legislative Enactments for instructions how to act towards such Europeans as may infringe the Honorable Company's Rules and Regulations made in respect to persons residing in their Territories in India. In this the Honorable Court's Reply to the foregoing representation from Colonel Bannerman, I think, with all due deference to them, that they almost admit the validity of the Title set up by our Landed Proprietors, inasmuch as the long disputed question is not decided, but in a manner evaded — they observe as follows:—

“With respect to the rights and disabilities of British born subjects to reside within the limits of the Company's Charter with or without our License, we do not think it necessary to exert any powers which we legally possess, merely for the purpose of exhibiting a public proof of their existence.”

“You observe that in the List of the European Inhabitants of Prince of Wales’ Island which you have referred to in your Letter, there are the names of several Gentlemen of worth and respectability, and the conduct of none who are contained in that, is in any way objected to. From this it is to be presumed, that some of the persons are meritorious, and that all are useful members of the society under your Government, and such as we should wish to countenance and encourage, and therefore we give them our License to reside at Prince of Wales’ Island.”

“The 36th Section of the Act of the 53rd of the Reign of His late Majesty Cap. 155, points out the course to be followed, if any person residing at your Presidency with our License, (whether express or implied) shall forfeit his claim to the countenance and protection of the Government; and if any such case should arise, you will give the notice pointed out by that Statute, and according to the exigency of the circumstances, you will take such further proceedings as are authorized by the Acts of the 33rd and 53rd of the late King, or communicate to us the facts which may enable us to judge what may be expedient to be done.”

126. But on this very important question, whether an Englishman, in possession of Lands at Penang, could be removed by any power under the Clauses of the 33rd and 53rd Geo. III, which enable Government to send home persons in India without a License, and not legally there, Sir Ralph Rice declares:—

“I am inclined to think they would be ruled to be legally here. It is a principle that an Englishman is irremovable from his freehold. It has been held in England, under the Poor Laws, that a Pauper chargeable, cannot be removed from his freehold under the Act which enables Justices of the Peace to remove all persons chargeable to the Parish in which they are legally settled. It might also be argued, that the granting of a fee to A and his Heirs, was an irrevocable License, and the Company would be estopped by their own Act from saying that he was not legally there. I incline to that opinion. I am inclined to think, whatever may be the policy, that the Legislature would not interfere, so as to convert this freehold into a personalty, but that they would leave it to the Law to decide, whether custom or usage could give such an interpretation on such a Grant, leaving the right of residence as a Corollary to that proposition, but I confess, I think the Directors are, in duty to their Government, bound to obtain for them the best legal advice on the question.”

127. I will close this Historical Review of our Landed Tenures by laying before the Board, the last Instructions from the Honorable Court respecting a permanent Settlement of our Lands. They are contained in the General Letter of the 28th April, 1809:—

“In our first General Letter to Your Presidency of the 18th April, 1805, we laid down certain Regulations intended to be fundamental with respect to the Landed Tenures of the Island. We think that those Regulations were well adapted to the case of Lands about to be newly settled, but we now find, that the

“ various measures which had previously taken place under the direction of the Government General, or the local Governments, render it necessary that further Instructions should be transmitted to you upon the subject.”

“ We consider it as unfortunate that when the Island was first occupied by us, greater precaution was not used in fixing both the principles which should regulate Grants of Lands, and the mode of issuing, and the forms of registering such Grants. Most of the early proceedings on the subject had no respect to distant effects, and the measures afterwards adopted at different periods, previous to the Year 1805, were so frequently inconsistent with those which had gone before, that the whole of this business is now involved in such extreme confusion, as to render it difficult to adopt any measures that shall reconcile the expectations of the Individuals with the rights which we conceive Government ought to retain in the Lands of the Island.”

“ Where, however, the faith of the Company can be proved to have been pledged to any Occupier of the Soil, that faith must undoubtedly be substantially maintained; but it is not inconsistent with these principles, that where persons have been permitted to enter upon the clearance of Lands, with an understanding that a regular Grant was to be afterwards made out, such Grants, when formally extended, should contain the conditions proper for the paramount Owner of the Soil to require.”

“ Under these views, we proceed to give the directions which appear to us proper with respect to the present subject.”

“ You have described the various sorts of Tenures under which Lands have been allowed to be holden on the Island. These are *verbal permission* to cut down Jungle, *Cutting Papers*, *Measurement Papers* and *Grants*, which we presume are Deeds in more regular forms. Whenever a written Paper under any written form has been given, and the authenticity of it shall be established, we are, under present circumstances, disposed to admit, that it founds a claim to the possession of the Land upon such condition as shall be judged fit to be introduced into perfected Grants, and as shall not be inconsistent with anything contained in the Paper alluded to, or with any former Agreement.”

“ With respect to Claims originating in verbal permission to cut down Jungle, and now standing on the general notoriety of the fact, and on subsequent undisputed possession of the Lands held under that Title, it appears to us, that wherever you have reasonable grounds to be satisfied that present occupation is regularly derived from such a commencement, the possessor is entitled to receive a regular Grant at the rent at which he has hitherto held, or in case no rent shall have been hitherto paid, at a small Quit Rent; but we think it may be expected on our behalf, that these Grants should contain such a reservation or condition as it may be deemed fit to introduce in our favor as Lords of the Soil into all future Grants, such reservation or condition not being inconsistent with the manner in which the Lands have hitherto been used or enjoyed.”

“All Lands possessed by Individuals must henceforward be held by regular written Grants duly registered; those persons who already possess regular Grants must therefore have them entered in a fresh Register, which is to contain a complete account of all Grants of Lands in the Island.”

“No new Grant of Land is to be made for a greater quantity than 50 Orlongs, nor are any such Grants to be made to that extent unless the Grantee is understood to be capable of clearing the Lands in a reasonable time.”

“Lands not cultivated in a certain time after the Grant (which period is to be equitably fixed by the Government of the Island) to revert to the Company.”

“Uncultivated Lands not to be henceforward saleable by Grants.”

“All Lands are to be liable to a Land Tax, which before it is imposed, shall have the confirmation of the Bengal Government, and the Court of Directors.”

“A new Survey and Measurement are to be made of all the Lands on the Island, with a regular Report of those which are held by Grants of any kind, describing the nature of the Original Grants, and the names of the Original and subsequent proprietors.”

“Lands suitable for Public Edifices, Fortifications, Docks, and Arsenals, to be reserved for the Company.”

“A moderate Fee to be taken on all the Grants on their registration, and to be paid into the Company's Treasury.”

“The Tenure of Lands held by Europeans, is upon the grounds stated in the 56th Paragraph of our General Letter of the 15th April, 1805, to be very strictly scrutinized, and the directions given in that Paragraph, and in the 58th Paragraph of the same Letter, are to be carefully followed up, except when superseded by more precise directions on the same points given in this Letter.”

128. The above Historical Review of our Landed Tenures must, I think, satisfy the Board, and our Honorable Masters of the truth of the following propositions:

1st.—The King of Queda cannot interfere at Law with the Tenures of Land on this Island, and, on such a subject, can never have a *locus in judicio*, whilst for what he receives, by whatever name it shall be called, it will be considered so far of a political nature, and so far bottomed on Treaty, and the Honorable East India Company will here, and in all English Courts of Justice, be held to be Sovereign, and not liable in a Municipal Court. And although it would have been more prudent, if a cession of the Sovereignty of the Island had been obtained in express terms by a Treaty with the King of Queda, or however base, or qualified, or subject to whatever condition may be the fee or right of the Company from Defective Treaty, still their acknowledged Agents, this Government, having assumed a right to make a Grant in fee, subject only to one condition of paying a certain Quit Rent, they would be so far considered Paramount Lords of the

Soil as to be estopped from disputing the legality of their own Acts, or attempting to affect any of the existing Grants of Land.—*See Paragraphs 19 to 26.*

2nd.—On our first taking possession of the Island, Mr. Light was authorized by the Governor-General to distribute portions of Land, and in his anxiety to encourage Settlers, he not only issued written Grants, but gave a general, indiscriminate, and *verbal* permission which has never been withdrawn, for clearing and occupying the Land, and even pledged the faith of Government in a Public Circular declaration in 1788, that every person settling and clearing Land on Penang, should become virtually possessed of a property in the soil to him and his Heirs for ever.—*See Paragraphs 7 to 14.*

3rd.—Mr. Light began before the Year 1789, to issue Grants of Land containing no clause of resumption as supposed by the Honorable Court of Directors, but giving a fee simple to the Grantee and his Heirs for ever, and without any condition enforcing the payment of the Annual Quit Rent, prohibiting the future abandonment of the Land, regulating the restrictions or limitations under which all transfers and sales were to be made, and without any reservation in favour of the East India Company to enable them afterwards to regulate or affect the Tenures in any way except the payment to them of a small and insignificant Annual Quit Rent.—*See Paragraphs 14 to 19.*

4th.—The Supreme Government in April, 1795, and again in August, 1796, expressly confirmed all Mr. Light's verbal, as well as written Grants in perpetuity to those who had cleared and cultivated Land.—*See Paragraphs 43, 44, 50.*

5th.—Although the practice at Penang has certainly been to treat Lands held under the above described Grants, as Leases or Personal Property, yet the case has never been solemnly decided; and from the Judgment given in the Court of Chancery in 1819, declaring even a Bengal *Pottah* constituted a Tenure of the nature of Fee Simple, and the Lands held by it were not to pass by an unattested Will, but to descend to the person who would be Heir at Law in England, we have every reason to believe, that as to Englishmen, our Lands would be considered as real property; giving them a right to devise it to whomsoever they please, or to sell it in Europe; and hence, that the East India Company might possibly be embarrassed how legally to refuse the Heirs of Purchasers permission to come out from Europe, to take possession of such Lands of a [. . .] *See Paragraphs 20 to 29.*

6th.—The objections which have been urged against European Colonization in India, do not apply to the situation and circumstances of this Island; and none of the Prohibitions which are in force at the other Presidencies against Europeans holding Lands were ever adopted or directed by the Supreme Government to be adopted here. Mr. Light was authorized by the Governor-General to receive *all persons wishing* to settle at Penang and no objection was ever made to his receiving European Settlers, and even giving them portions of Land, although they possessed no License from the East India Company to reside within the limits of their Charter. No Rules also for regulating or restricting the possession of Lands by Europeans were ever adopted, and they were allowed to possess themselves at an early date of a large and the best portion of our Lands.—*See Paragraphs 54, 101 to 118.*

7th.—There is every reason to believe that the Government of this Island have not the power of applying the Clauses of the 33rd and 53rd of the late King, with respect to British subjects resident in India, against any person holding Lands at Penang. But as it is a principle that an Englishman is irremovable from his Freehold; and as it has been held in England under the Poor Laws, that a Pauper chargeable, cannot be removed from his Freehold under the Act which enables Justices of the Peace to remove all persons chargeable to the Parish in which they are legally settled, the granting or allowing an Englishman to possess a Free or Freehold property in Penang, might be considered an irrevocable License, and hence the Company would be estopped by their own Act, from saying, that he was not legally here.—*See Paragraphs 118 to 127.*

8th.—No complete Survey of the *whole* of the Lands at Penang has ever been taken, and no regular Account or Survey kept of the different allotments or Grants of Land, of their dimensions and boundaries, or of their Sales, transfers and partitions, which last have generally been made by a few lines on the back of the Grant, or by an unprofessional Conveyancer. No attempt has also ever been made to correct, according to Mr. MacCarthy's Surveys the existing Grants, in all of which the dimensions of the Ground have been set down by Estimate, or from the loose report of a Native Land Measurer. Hence once of the first duties of the Government must now be to obtain a correct Survey of the Lands belonging to individuals, and to furnish our Landholders with the means of selling or transferring their Lands according to a more regular, safe, and even cheaper form than what is now practised.—*See Paragraphs 35, 37, 45, 51, 61.*

9th.—Mr. Light does not appear to have established a Registry for the Sale of Lands, until the Year 1792, three or four years after he had began to issue Grants; but he entrusted this Registry, and the whole duty of Surveying and allotting Lands, to Natives, and established no Formula for a Bill of Sale, so that even in 1796, his friend Mr. James Scott reported, that the Register had been irregularly kept, and required examination. Owing to this, and to the circumstance that no Rules appear ever to have been established for enforcing the Registry of all Transfers of Lands, and the regular payment of the Quit Rent, the Books at the Collector's Office do not include a large portion of the Grants that have actually been issued, or the Bills of Sale that have been made on them, and there now exists the greatest difficulty in collecting Quit Rents and in tracing alienations of property and fixing Tiles.—*See paragraphs———.*

10th.—The Quit Rents, for the reasons abovementioned, and from their having been omitted to be collected during the first years, have now gradually accrued into heavy arrears, and the duty of two per cent on Registry is, for the same reasons, in great arrears, and has long been erroneously considered in the light of a Fee only, paid into the Company's Treasury. Hence, we must now endeavour to obtain from the Records of the Supreme Government, a Copy of the Instrument which imposed the Registry of Bills of Sale, and of the Rules for collecting it, and as the Company's duty of two per cent was first proposed by Mr. Light in 1788, and again by Mr. Manington in 1796, as it appears, for the express object of *Revenue*, there can be no doubt of our right to enforce its payment, as well as that of the Quit Rents, although the issue of the Law Suit for arrears of Quit Rent instituted

in the Year 1818, and other circumstance enumerated in the above Historical Review, may lead us to consider it judicious and politic to abandon most of the Quit Rents and Registry Duties, due by prior holders of Lands, on condition of the present holders paying for the last Registry, and the Quit Rents during their occupancy.—See Paragraphs———.

11th.—The Government have failed on every occasion they have tried, to call in all previous Grants, which moreover they have not the power to effect; and as the right to demand a sight of them, founded on the reservation of Quit Rent, payable to the Company as Lords Paramount of the Soil, cannot be enforced, if resisted, without an Action of Ejectment, Compromise will be the best course the Government can now adopt, for obtaining a knowledge of the numerous Grants of Lands and of their different alienations and Transfers.

12th.—The above Historical Review fully proves that Lands will not be received here from the Company on temporary Leases; that no Grants containing any limitation or new regulation of the Tenure, will be accepted by our Landholders; and that now, after a great portion of the Lands on the Island has been granted away, it is too late to attempt to introduce into our Grants any of the new clauses suggested by the Court of Directors, such as *limiting the quantity to be held by Europeans, engaging that no Europeans shall be entitled to come here from Europe to take possession of Lands devolving to them, without License from the East India Company, or stipulating that no large Trees applicable to the purposes of Ship building shall be cut down except for those purposes; and that the Company shall have the power of resuming such possessions of the Lands, as it may be deemed necessary to convert to public purposes, or such as may be found to contain Mines of any description.*—See Paragraphs———.

13th.—With respect to Tracts of Lands which have been neglected or abandoned altogether since the first Owners, in their desire of engrossing as much as possible, obtained them from Mr. Light and his Successors, and on which large Arrears of Quit Rent have become due, the Government should not be deterred from hereafter considering the propriety of taking possession of, and re-granting all such Lands, whether claimed on Grants, Measurement Paper, Cutting Paper, or former Occupancy.—See Paragraphs 108, 109, 110.

14th.—Although the Measurement and Cutting Papers were originally revocable Licenses, which, if not completed by Grants demanded, would at the instance of the Company be null and void, and the Land might be re-granted; still as not a single instance has ever occurred of such right of resumption having been enforced, whilst on the contrary the sale and Transfer of Lands on such Deeds (*sic*) were for many years registered and payment of the Company's Duty received in the same manner as for those on regular Grants, the Inhabitants have long believed the Government *pledged* to furnish them with Grants of the same Tenure as those received by their predecessors. They expect such, and so many purchases and transfers have been made on the faith of such expectation, that no Grants, with new or additional clauses, will be received, or perhaps can now, in common justice, be offered to them by Government. Advertising to these circumstances, and to the Honorable the Recorder's opinion, that, with respect to the numerous Landholders who claim Lands on Occupancy by verbal

License, a Court of Law would, upon proof, of a clear, undisturbed, undisputed possession presume a Grant, and upon which such Occupiers of the Land could no doubt legally decline to receive any Grant from the Government, the Board cannot recommend that any alteration from the Form adopted in 1818, should be attempted to be made in any new Grants which we may hereafter issue.

15th, and lastly.—The above Historical Review shews, that Lands are at present held at Prince of Wales' Island on seven different Tenures, *namely*:—

1st.—Verbal permission given by Mr. Light, the first Superintendent, to Individuals to cut down Jungle on his originally taking possession of the Island, not followed in many cases by any written Documents, but held on the notoriety of the fact, and hitherto undisputed. The quantity of Land held on the Island by this Title, has never been ascertained, but it is supposed to be very considerable.

2nd.—The subsequent Official permission to the same effect styled a *Cutting Paper*, first issued, as appears from the Register, on the 22nd December 1797, and containing a clause giving a right of resumption to Government, after the Ground shall be cleared, on paying the clearer at the rate of 5 Dollars per Orlong, but which right has in no instance been enforced. The quantity of Land held on the Island and on the opposite shore by this Title, amounts by the Collector's Books to 9,942 Orlongs.

3rd.—A certificate from the Native Land Surveyor of the actual measurement of the Tracts of Ground cleared on one or other of the above authorities, and locally termed a Measurement Paper, "which contains no clause of reservation or obligation, and which has always been considered not only preliminary to, but as valid a Document as a regular Grant direct from the Government. The quantity of Land held on the Island by this title, amounts by the Collector's Book to 5,309 Orlongs.

4th.—An Official Deed or Grant giving the property therein described, to the holder and his Heirs for ever, without any clause or reservation, except an Annual Quit Rent of one or two Spanish Dollars only, payable to the Company, as Lords Paramount of the Soil. The quantity of Land held on the Island by this Title, amounts by the Collector's Books to about 2,258 Orlongs.

5th.—A Grant to the same intent and purpose, only with the rate of Annual Quit Rent increased to two Copongs or twenty pice for every Orlong contained in the Grant, at which rate it has been generally fixed, since the time of Mr. MacDonald in the Year 1795; the Quit Rent being thereby converted into a direct and considerable Land Tax, amounting to nine Pence Per Acre. The quantity of Land held on the Island by this Title, amounts by the Collector's Books to about 10,363 Orlongs.

6th.—A Grant to the same intent and purpose, as the above with a Regulation first introduced, in 1818, by Colonel Bannerman, requiring the stipulated Annual Quit Rent to be paid by the Grantee at the Office of the Collector of Customs and Land Revenues for the time being, or such other Public Officer as the Government for the time being may direct to receive the same, on failure of which Annual payment being duly made, the Grant to be null and void, and the

Ground to revert to the Honorable Company. The quantity of Land held on the Island by this Title, amounts to 431 Orlongs.

7th, and lastly.—Long occupancy of the Lands which were not obtained during Mr. Light's time, but have been subsequently seized without any regular permission, out of such as may have been neglected or abandoned by the first Proprietors, or may have remained in the primitive state of Forest and Jungle. The quantity of Land thus occupied, is of course unknown.

129. I am at length arrived to that part of my duty which requires me to detail such measures as can, in my opinion, be now introduced to remove the numerous perplexities and difficulties which have for so many years accumulated on the Tenures of Land in this Island, and to effect a just, permanent, and satisfactory settlement of our Lands. I had originally intended to purpose the formation of a Plantation Board, or a Board of Commissioners such as Mr. Light and Mr. Farquhar suggested, and such as Mr. Dickens recommended, for the purpose of receiving claims to Lands, hearing the allegations in support of them, and shortly reporting their opinion with the grounds on which it rested, for the ultimate decision of Government; but upon further consideration I am inclined to think, that such a general interference of apparently an arbitrary nature, would alarm our Landed Proprietors, whom we certainly cannot get out of the present confusion, but by slow means, and a system of compromise. I propose then

1st.—That another Assistant be appointed in the Collector's Office for the special service of the Lands, as the Deputy Collector is employed on the opposite shore, and principally on this very duty of settling the Lands there, and the present Assistant Collector is engaged with the whole business of the Sea Duties and Customs.

2nd.—That a competent Land Surveyor and a moderate Establishment be allowed to this Assistant Collector, and that he be directed to visit in person every Proprietor's Ground in each District, and prepare a Report of each Property, whether held on Grant, Measurement Paper, Cutting Paper, Bill of Sale, Mortgage Bond, or by Occupancy only, according to the following Scheme.

No. III.—REPORT of Lands held on Measurement and Cutting Papers in the District of _____

Measurement or Cutting Paper, No. Date, and in whose Name issued.	Quantity, Quality.	How much paid for same.	Persons in possession.	Occupier and how occupied.	Whether any assignment and how many, and to whom.	Whether Mortgaged or pledged and to whom.	Whether in possession of Executors or Administrators.	Estimated Value.	General Remarks.
<p>No. IV.—A Report of Bills of Sale of Measurement and Cutting Papers similar to No. 2.</p> <p>A Fifth and separate Return of all Lands cultivated by persons who have no written Documents, but only a possessory Right.</p>									

3rd.—That whilst surveying one District, this Assistant Collector be cautioned not to lose sight of alienations in other Districts, and that he be desired to seek assistance in his Circuit of the Police Thanas in each District, which should be ordered to afford it him, as well as of the Court of Judicature in its Ecclesiastical side, the Sheriff from his Sales, the Committee of Assessors from their Books, and of the different Records in the Collector's Office, the whole of which should be placed under his immediate Charge.

4th.—That this Assistant Collector shall consider himself under the orders of the Principal, in the same manner as the other subordinates of his Office, but that he and the Land Measurer must obey the Orders of the Court of Judicature on questions arising out of disputed titles and boundaries, and endeavour to attend the Court on all Cases relative to such subjects, so that they may learn what the Law expects.

5th.—That this Assistant Collector shall consider it an especial part of his duty to receive Annually the Quit Rents at the Thana of each District out of George Town, and within, at the Custom House, reporting always for the information of the Government all such Lands as may be satisfactorily shown to him to be unable, from any circumstances, to bear the high rate of Quit Rent, and the Proprietors of which may require some reasonable indulgence.

6th.—That in the course of a few weeks, if the Board observe the success of the arrangements above recited, a Public Notice be issued declaring that the Company will abandon their claim to all Quit Rents due by prior holders of Land, on the payment of the Quit Rent which has accrued during the tenancy of the person now entitled.

7th.—That an application to be made to the Supreme Government for a Copy from their Records of the Instrument which first imposed the Registry of 2 per cent on the Sale and Transfer of Lands in Penang, as well as of the Rules which Mr. Light and Mr. Manington established for collecting [. . .] hereafter, should the Copy of the Original Instrument and of the Rules authorize it, another Public Notice be issued, informing our Landed Proprietors of the power and resolution of Government to demand all Bills of Sale or other alienations of Land to be registered at the Collector's Office, and to enforce the payment of this duty of 2 per cent in the same manner as that of any other branch of the Company's Revenue, but signifying at the same time the intention of Government to abandon their claims to all former arrears of the Tax, on the payment of the duty on the Registry of the last Bill of Sale*

8th.—That no person in the employ of Government shall be permitted to act as conveyancer, and to draw Deeds as to Lands, without the License of Government, and of the Court of Judicature, and that the Assistant Collector shall communicate with the Honorable the Recorder, and furnish himself with well settled and regular Forms of Deeds, according to which he will draw out Conveyances, &c., for all persons desirous of employing him, on certain very moderate fees, the amount of which shall be carried to the credit of Government.

* NOTE.—The Registration of Deeds relating to Lands has been considered every proper and judicious, by the highest Authorities.

9th.—That as soon as the Assistant Collector has furnished Government with a Statement of the Lands in a District held under Measurement Papers, or Cutting Papers, or by occupancy without either, notice be given to each person so holding that a Grant, drawn out according to the Form established in 1818, shall be given to him on a certain day to be named, and if not applied for, that the Company will proceed at Law to resume the Land. On this point, every reasonable time and indulgence must of course be given hereafter to the Proprietors or Occupiers of such Land as may not immediately bear the expense of having Grants taken out for them, and this matter should be fully reported to Government by the Assistant Collector. A fee of ten pice may be charged on every Orlong in each Grant containing less than 100 Orlongs, and a Fee of Ten Dollars on Grants for that and all above that portion of Land, the amount of which Fee should, however, be carried to the credit of Government, as some re-imbusement of the expense which will attend the present arrangements. But no other Charge or Fee of any description than those here specified to be on any account demanded by any person in the employ of Government.

10th.—That as soon as the Assistant Collector has completed his Report of Lands in the different Districts, the Government take into consideration the propriety of issuing another Public Notice declaring its determination to take possession of all abandoned Lands, and re-grant them, taking the risk on themselves of any dormant Grantee arising.

11th, and lastly.—That the above arrangements, if approved by the Board, be communicated to the Honorable and Learned Recorder; that the best and grateful thanks of the Government be tendered to him for the able and zealous aid which he has afforded to it on the present difficult and intricate subject, and that he be solicited to continue such assistance towards promoting the success of these arrangements, and further to do the Board the favor of examining the Draft of Mr. Dickens' Rule as to Memorials of Deeds, &c., in view that it may hereafter, when we have the power, be adopted with such alterations as his experience and superior judgment may point out. The introduction, if possible, of at least two clauses, appears advisable:—one, subjecting to a penalty the omission to register in the manner proposed by Mr. Dickens; and the other, enacting that no Deed or Will, or Contract as to pledge, relating to Lands shall be given in evidence or made in any way available in the Court of Judicature, unless it shall appear to the Court, that the same, as well as all intermediate Assignments have been registered, and have paid the duty on such alienation, or such pledge in possession.

130. Measurement and Cutting Papers should, after Grants for those now in being are issued, be declared unalienable, and in the meantime no Bill of Sale of a Measurement or Cutting Paper should be registered without the proper and necessary Title by Grant from the Company, with a reservation to them of a Quit Rent as Lords of the Soil. The Assistant Collector should also be prepared to comply with the application of those Proprietors, who possess several contiguous portions of Land on several distinct Grants, and who may desire to reduce their Titles into one Grant. Every care, however, must be taken that in all such cases, the Original Grants are preserved,

and ample reference made to their numbers, &c., in the new Grant that may be prepared.

131. The whole of the above measures may I think, be easily and quietly adopted, and if they are slowly and gradually introduced perhaps one Law suit will not be necessary. Compromises should in all cases be tried to the utmost, and every liberal offer made of the assistance of the Land Measurer. In numerous instances, the Estate will not bear the expenses of litigation; but if the people see that the views of Government are not directed particularly towards Revenue, but towards effecting a fair and equitable settlement of the Lands, they will not only forbear to oppose us with legal and technical difficulties, but cheerfully come forward and lend us their assistance. Wherever the Land is in actual Cultivation, we shall have little difficulty in ascertaining the proper person to whom a Grant ought to be furnished, and wherever the Land is waste, or has been abandoned, we most probably shall not be troubled with many claims to it.

132. To enable us, however, to obviate every chance of opposition and prosecute the above arrangements to a complete and successful issue, we must again earnestly solicit the Honorable Court of Directors will see the absolute necessity of complying with our late application, and obtaining an Act of Parliament giving this Board the same powers to make and issue Rules, Ordinances, and Regulations for the good order and civil Government of this settlement, as are legally vested in the Supreme Government, and the Governments of Fort St. George and Bombay only, by the 36th Clause of the 13 Geo. III, C. 63 and the 1st [. . .]. This Government has [. . .] enacted the few Rules and local Ordinances which were indispensably necessary, upon no other Authority than that conveyed in the 69th Paragraph of the Honorable Court's Letter, of the 18th April, 1805. The legality of that Authority is not admitted by the learned Recorder, and there is no doubt, that the 98th and 99th Clauses of the 53rd Geo. III, C. 155, give us no power to make any other Regulations than such as relate to Revenue only; and even such a Regulation cannot be issued until they have obtained the sanction and confirmation of the Authorities in Europe.

133. I had collected the necessary materials from our Records for drawing up a History of the Cultivation of the Island from its first occupation, and of the nature and practical result of the different measures adopted by my Predecessors for deriving a Revenue from our Lands, in order to enable the Board and our Honorable Masters to determine, whether any steps can be taken at the present moment for improving our resources by means of an additional Land Tax, or other Imports on Production. It may be sufficient for me, however to state, that every attempt which has hitherto been made to derive a Revenue from our Lands or their produce, has completely failed. In the present infant state of the Settlement, simplicity must be studied. I do not think at present any new Tax is desirable. We must first collect the old ones more regularly, and afterwards endeavour gradually to raise them; but the direct Tax on Land is already in my opinion quite sufficient, being in most cases no less than nine Pence per Acre, and after Grants have been substituted for the other Titles on which Lands are held, a very considerable increase will be made to our Revenue from that source. Besides, while a Grantee shall pay his

Quit Rent annually, and the Assignee the Tax on Registration, no valuable Land will be suffered to revert to Jungle, and the East India Company must ultimately benefit in proportion as Cultivation and Production extend over the Island. During the whole progress of my present labours, I do not therefore hesitate to own, that I have diligently kept in view the remark, which the authorities in Europe made on the occasion of the Settlement of the Lands in Bengal, and with which remark I will close this long Minute, "the riches of the People, are the riches of the State."

W. E. PHILLIPS.

15th August, 1823.

APPENDIX No. 1.

ABSTRACT Statement of Duties collected on the Sale of Houses and Lands in the following Years.

YEARS.	S.Drs.	Pice.	YEARS.	S.Drs.	Pice.
1786—87	None.	0	1805—06	2,375	26
1787—88	None.	0	1806—07	3,160	32
1788—90	12	0	1807—08	3,062	94
[. . .]	None.	0	1808—09	2,170	16¼
1790—91	None.	0	1809—10	[. . .]	
1791—92	30	35	1810—11	2,691	30
1792—93	112	36	1811—12	1,655	38
1793—94	37	96	1812—13	1,652	56
1794—95	169	55	1813—14	1,491	86
1795—96	170	0	1814—15	2,027	56½
1796—97	198	35	1815—16	2,237	90½
1797—98	147	54	1816—17	909	52
1798—99	214	0	1817—18	1,724	51
1799—1800	368	60	1818—19	1,086	73
1800—01	540	28	1819—20	726	8
1801—02	380	25	1820—21	559	45
1802—03	649	53	1821—22	787	15
1803—04	505	60	1822—23	817	43½
1804—50	1,960	26	Spanish Dollars ..	35,258	48¾

Errors Excepted,

JOHN ANDERSON,

Dep. Acct. and Aud.

FORT CORNWALLIS, }
 Accountant's Office, }
 8th August, 1823. }

APPENDIX No. 2.

STATEMENT of the number of Measurement Papers issued for Lands in Prince of Wales' Island, as taken from the Records in the Collector's Office, together with the quantity of ground in each District, exhibiting the respective number and quality issued to Europeans and to Natives, and the total of both.

DISTRICTS.	Dates.	To EUROPEANS.			To NATIVES.			TOTAL OF BOTH.		
		No.	Quantity.		No.	Quantity.		No.	Quantity.	
		Orlongs Jumbas.			Orlongs Jumbas.			Orlongs Jumbas.		
Tulloh Aier Rajah . .	None.	40	567	12	169	986	13	209	1,554	5
Soongby Cluan . .	—	0	0	0	179	1,056	5	179	1,056	5
Tulloh Julatong . .	—	3	131	13	72	706	4	75	837	17
Aier Etam . .	—	25	260	5	23	144	0	48	404	5
Battu Lanchang . .	—	0	0	0	18	277	9	18	277	9
Soongby Dua . .	—	0	0	0	33	244	18	33	244	18
Soongby Neebong . .	—	0	0	0	20	188	13	20	188	13
Tanjong Penaigre . .	—	62	45	3	320	133	11 $\frac{3}{4}$	382	176	14 $\frac{3}{4}$
Soongby Glugore . .	—	1	15	10	22	158	18	23	174	8
Soongby Teeram . .	—	0	0	0	35	123	10	35	123	10
Compung Pulo Penang	—	0	0	0	15	111	13	15	111	13
[. .]	—	0	0	0		[. . .]			[. . .]	
Battu Ooban . .	—	0	0	0	5	57	14	5	57	14
Tulloh Teecoose . .	—	1	10	0	11	28	18	12	38	18
TOTAL	132	1,030	3	933	4,279	5 $\frac{3}{4}$	1062	5,309	8 $\frac{3}{4}$

A. D. MAINGY,

*Acting Collector of Customs
and Land Revenues.*

COLLECTOR'S OFFICE,
Prince of Wales' Island,
The 31st July, 1823. }

APPENDIX No. 8.

STATEMENT of the quantity of Lands at Prince of Wales' Island, and the opposite Territory of Wellesley Province, for which Cutting Papers have been issued, exhibiting the respective quantity and number issued to Europeans and to Natives, and the total of both.

DISTRICTS.	To EUROPEANS.		To NATIVES.		TOTAL OF BOTH.	
	No.	Quantity.	No.	Quantity.	No.	Quantity.
Flag Staff Hill . .	2	28	0	0	2	28
From the bottom of the Flag Staff Hill, upwards	0	0	3	85	3	85
Aier Etam	6	129	64	413	70	542
Soonghy Glugore . .	4	135	7	49	11	181
Battu Lanchang . .	1	40	13	143	14	183
Soonghy Cluan . .	5	180	28	414	33	594
Compung Pulo Penang	0	0	1	4	1	4
Soonghy Dua . .	2	75	17	296	19	371
Soonghy Neebong . .	1	60	2	56	3	116
Soonghy Teeram . .	2	170	11	62	13	232
Tulloh Teecoose . .	1	20	43	345	44	365
Battu Moam	0	0	43	147	43	147
Tulloh Julatong . .	2	41	11	53	13	94
Tulloh Coombhak . .	0	0	6	49	6	45
Pyah Truboong . .	1	25	4	90	5	115
Byan Lapass	2	35	24	188	26	223
Tulloh Aier Rajah . .	6	115	15	75	21	190
Battu Pringhee . .	0	0	20	127	20	127
Neepah Coodong . .	0	0	9	47	9	47
Tulloh Bahaung . .	1	30	13	285	14	315
Tulloh Lanka . .	0	0	4	20	4	20
Carried over . .	36	1,083	338	2,949	2	374
						4,032
						2

DISTRICTS.	To EUROPEANS.		To NATIVES.		TOTAL OF BOTH.			
	No.	Quantity.	No.	Quantity.	No.	Quantity.		
Brought over . .	36	1,083	338	2,949	2	374	4,032	2
Between Soonghy Nee- bong, and Soonghy Teeram, Mangro Jungle	1	200	0	0		1	200	
Soonghy Cluan, Soong- hy Teeram, and Byan Lapass	1	220	0	0		1	220	
Byan Lapass and Tul- loh Coombhak	1	300	0	0		1	300	
Between Soonghy Dua and Soonghy Glugore	1	50	0	0		1	50	
Battu Ooban	0	0	1	3	10		3	10
Tulloh Upee on the Western side of the Island	0	0	1	10		1	10	
Aier Puteh ditto	0	0	4	45		4	45	
Soonghy Takur ditto	0	0	3	12		3	12	
Pondo Oopiece ditto	0	0	18	220	10	18	220	10
Tulloh Pulo Butong ditto	0	0	3	34		3	34	
Battu Pyah ditto	0	0	1	5		1	5	
Banting ditto	0	0	1	20		1	20	
Batang Timbul ditto	0	0	1	12		1	12	
Ghinting ditto	0	0	5	37		5	37	
Aier Etam ditto	0	0	193	1,418	5	193	1,418	5
Opposite of Wellesley Province	40	1,853	569	4,766	7	609	6,619	7
	4	198	147	4,024	13	151	4,222	13
TOTAL . .	44	2,051	716	8,791*		760	10,842*	

COLLECTOR'S OFFICE,
Prince of Wales' Island,
The 31st July, 1823. }

A. D. MAINGY,
*Acting Collector of Customs,
and Land Revenues.*

* In the original edition the totals in columns 4 and 6 respectively are 7,791 and 9,942; either the castings or some of the figures in the return must have been incorrect.

W. E. M.

APPENDIX NO. 4.

STATEMENT of Grants for Lands at Prince of Wales' Island, exhibiting the number issued to Europeans as well as to Natives, and the Total of both, from the year 1789 to the 31st July 1823, and the number since cancelled at different periods according to the Records of the Collector's Office, together with the number of Grants signed, but not issued.

DURING WHAT ADMINISTRATIONS.	In what Year.	TO EUROPEANS.			TO NATIVES.			TOTAL OF BOTH.			Number of Orlongs.	REMARKS.
		No. issued.	No. can-celled.	No. remain-ing.	No. issued.	No. can-celled.	No. remain-ing.	No. issued.	No. can-celled.	No. remain-ing.		
During the Adminis-trations of Mr. Light, Mr. Manning-ton, Mr. Pigou, Mr. Beauland, Mr. MacDonald and Mr. Caunter, Superin-tendants.	1789 ..	1	0	1	0	0	0	1	0	0	2,258 14	The first number entered in the first Register of Grants of Lands issued by Mr. Light is No. 8, dated the 1st of January, 1879, by which it is reasonably to be supposed, that some of the Sheets to that Book are wanting.
	1792 ..	1	0	1	2	0	2	3	0	3		
	1793 ..	7	1	6	3	1	2	10	2	8		
	1794 ..	56	11	45	87	2	85	143	13	130		
	1797 ..	8	0	8	284	7	277	292	7	285		
	1798 ..	0	0	0	7	0	7	7	0	7		
	1800 ..	1	0	1	2	0	2	3	0	3		
During Administra-tions of Sir George Leith, Bart, Mr. Kerquhar, and Mr. Phillips, Acting Lieut.-Governor.	1801 ..	36	3	33	158	2	156	459	22	437	10,362 6½	The Records do not shew by whom the Grants were severally signed.
	1802 ..	66	5	61	202	9	193	268	14	254		
	1803 ..	52	1	51	235	2	234	288	3	285		
	1804 ..	19	2	17	148	7	141	167	9	158		
	1805 ..	79	5	74	115	1	114	194	6	188		
	1805 ..	5	0	5	8	0	8	1,111	37	1,074		
Since the arrival of the Governor and Council.	1806 ..	0	0	0	1	0	1	13	0	13	431 2	
	1814 ..	0	0	0	2	0	2	1	0	1		
	1818 ..	0	0	0	2	0	2	2	2	2		
	1819 ..	9	0	9	1	0	1	2	2	2		
	1820 ..	0	0	0	2	0	2	11	0	11		
	1821 ..	3	1	2	5	0	5	1	0	1		
	1822 ..	5	0	5	9	6	9	8	1	7		
Total ..	349	29	320	1,273	31	1,242	1,622	60	1,562	13,063 2½		

Grants made out and signed by the former Lieutenant Governors, but not issued, viz:—

To Europeans.....	4
To Natives.....	149
TOTAL.....	153

COLLECTOR'S OFFICE, Prince of Wales' Island, The 31st July, 1823.

A. D. MAINGY,
Acting Collector of Customs, and Land Revenues.

APPENDIX No. 5.

ABSTRACT Statement of Sums received on account of Quit Rent in the following Years.

1795—96	194 97
1797—98	206 0
1798—99	57 0
1801—02	260 75
1805—06	1,808 82½
1806—07	1,762 36
1807—08	2,725 55½
1808—09	2,112 73½
1809—10	1,776 63
1810—11	1,717 87
1811—12	922 0
1812—13	1,011 72½
1813—14	1,526 59½
1814—15	1,723 94½
1815—16	972 30½
1816—17	810 76¾
1817—18	893 29¾
1818—19	1,218 93½
1819—20	690 70½
1821—22	1,896 55½
Collector's Statement from 1st February to 31st May, 1823	1,908 30
Spanish Dollars,	26,195 12½

Errors Excepted.

JOHN ANDERSON,
Depty. Acct. and Aud.

FORT CORNWALLIS,
Accountant's Office, }
29th July, 1823.

N.B.—Arrears of Quit Rent recoverable by the Superintendent of Company's Law Suits. 6,585—19.

APPENDIX No. 6.

STATEMENT of the quantity of Lands in Prince of Wales' Island granted to Individuals in Perpetuity as well Europeans as Natives.

No.	DISTRICTS.	To	To	TOTAL IN EACH
		EUROPEANS.	NATIVES.	DISTRICT.
		Orlongs	Orlongs	Orlongs
		Jumbas.	Jumbas.	Jumbas.
1	Tanjong Penaigre, or George Town ..	89 10	94 17	184 7
2	Flag Staff Hill ..	39 12	0 0	39 12
3	Battu Lanchang ..	254 8½	511 13½	766 2
4	Aier Etam ..	1,345 14	237 11	1,583 5
5	Soonghy Glugore ..	171 0	138 14	309 14
6	Soonghy Cluan ..	664 19½	1,113 11¾	1,778 11¼
7	Campoong Pulo Penang ..	61 14	167 10	229 13
8	Soonghy Dua ..	66 11	332 7	398 18
9	Soonghy Neebong ..	170 1	154 13½	324 14½
10	Battu Ooban ..	0 0	119 12	119 12
11	Soonghy Teeram ..	48 9	393 18	442 7
12	Tulloh Teecosse ..	84 9	315 13½	399 13½
13	Battu Moam ..	10 7	208 5½	218 12½
14	Tulloh Julatong ..	422 8	215 7	637 15
15	Tulloh Coombhak ..	0 0	123 14	123 14
16	Pyah Trubong ..	198 15	95 19½	294 14½
17	Byan Lapass ..	40 13	36 14½	77 7½
18	Tulloh Doojong ..	50 0	0 0	50 0
19	Tulloh Aier Rajah ..	687 13¾	729 11½	1,417 5¼
20	Tulloh Bahau ..		[. . .]	[. . .]
21	[. . .]	0 0	56 0	56 0
22	Aier Etam, West ..	0 0	55 1	55 1
23	Battu Pringhee ..	0 0	9 10	9 10
24	Tulloh Puloh Butong	7 11	18 6	25 17
	TOTAL ..	4,413 6¾	5,155 14¼	9,569 1

A. D. MAINGY,
Acting Collector of Customs,
and Land Revenues.

COLLECTOR'S OFFICE,
Prince of Wales' Island, }
The 31st July, 1823.

APPENDIX No. 7.

COPY of Mr. Dickens' Proposed Regulations for Registering Lands at Prince of Wales' Islands

DRAFT OF A REGULATION BY HIS EXCELLENCY THE MOST NOBLE THE GOVERNOR-GENERAL, &c., &c., &c.

For the Security of Title to Purchasers and Mortgagees of Houses and Lands within Prince of Wales' Islands and its Dependencies, and to prevent fraud and impositions in the Sale and Mortgage of the same.

1st.—Whereas divers disputes have arisen relative to the Title to Lands at Prince of Wales' Island, it is hereby, and by the Authority of His Excellency the Most Noble the Governor-General in Council ordered, enacted, and declared, that a Memorial of all Deeds and Conveyances which shall be made after the _____ day of _____ 1802, and of all Wills in Writing where the Devisor shall die after the _____ day of _____ 1803, of and concerning any Houses, Tenements, or Lands within Prince of Wales' Island, and its Dependencies shall be registered as hereafter mentioned. That after the registering of such Memorial, every Deed or Conveyance which is made of the Houses or Lands comprised in such Memorial, shall be adjudged fraudulent and void against any subsequent Purchaser or Mortgagee for a valuable consideration, unless a memorial thereof shall be registered before the registering of the Memorial of the Deed or Conveyance under which such subsequent Purchaser or Mortgagee shall claim, and that every devise by will of Lands contained in any Memorial so registered, which shall be made after the registering of such Memorial, shall be adjudged fraudulent and void against any subsequent Purchaser or Mortgagee, unless a Memorial of such Will shall be registered, and that a Public Office for registering such Memorials shall be kept at George Town in Prince of Wales' Island, the duties thereof to be executed by a fit person to be appointed; and in case of sickness by his sufficient Deputy to continue in the said Office so long as he shall or will demean himself therein, and to be under the superintendence, direction, and control of the Judge and Magistrate of the Settlement of Prince of Wales' Island.

2nd.—And whereas many languages or characters are in use at Prince of Wales' Island, all Memorials shall be written in the English Language and Character, on Paper, in cases of Deeds and Conveyances, such Memorials shall be under the Signature or Seal of the Grantor or Grantees, or their Guardian or Trustees, and attested by two witnesses, whereof one is to be one of the witnesses to the execution of such Deeds, which witnesses shall without Oath before the said Judge and Magistrate prove the signing or sealing of the Memorial, and on the execution of the Deed mentioned in such Memorial; and in cases of Wills the Memorial shall be under the Signature or seal of one of the Devisees, his Guardian and Trustees, attested by two witnesses, one whereof shall prove the signing or sealing of such Memorial.

3rd.—Every Memorial of any Deed or Will in writing shall contain the day of the Month and year when such Deed or Will bears date, as described upon the face of the Deed or Will itself; and if such

date varies from the computation of time used in the United Kingdom of Great Britain and Ireland, then also every Memorial shall contain the corresponding date according to such last mentioned computation of time, as used in the said United Kingdom, also the names and additions of all the parties to such Deed, and of the Devisor and Devisees of such Will, and of all the witnesses and their places of abode, and shall mention the Houses, Tenements and Lands mentioned in such Deeds or Wills, and the names of the places or Districts in Prince of Wales' Island and its Dependencies, where such Lands are situate, and in the same manner as such Lands are mentioned in such Deeds or Wills, and every Deed or Will, or Probate of a Will, of which any such Memorial is to be registered shall be produced to the Register at the time of entering such Memorial, and the Register shall endorse a Certificate on such Deed or Will, or Probate of a Will, and mention the day, hour, and time on which such Memorial was entered, expressing also in what Book, Page, and number the same is entered, and the Register shall sign the Certificate so endorsed which shall be allowed as Evidence of such Registry in all Courts on Prince of Wales' Island and its Dependencies, and every Page of such Register Book, and every Memorial that shall be entered, shall be numbered, and the day of the month and the year and hour or time of the day shall be entered in the Margin of the Register Books, and of the Memorial, and such Register shall keep an Alphabetical Calendar of all the Places and Districts within Prince of Wales' Island and its Dependencies with reference to the number of every Memorial that concerns Lands, Houses, and Tenements in such Places or Districts, and of the names of the parties, and such Register shall duly file every such Memorial in order, as the same is brought to the Office and shall enter the Memorials in the order they come to hand.

4th.—Every such Register, before he enters on the duty of his Office, shall be sworn before the said Judge and Magistrate in these words.

This clause should not come before the 13th clause	}	“You shall truly and faithfully perform “ and execute the office and duty of registering “ Deeds, Conveyance, Judgements and Wills. “ within the Settlement of Prince of Wales’ “ Island and its Dependencies, so long as you shall continue in the “ said office
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“So help you God.”

5th.—Every such Register may appoint a Deputy, when from any reasonable causes he is unable to attend his duty. But such Deputy must take the Oath hereinafter mentioned prior to his undertaking the duties of the Register's Office, and every such Register or his sufficient Deputy shall give due attendance at the Registry Office every day in the week, except Sundays and other Holidays from 10 o'clock in the forenoon, till 2 o'clock in the afternoon for the dispatch of business.

6th.—Where for perfecting any Conveyance of Houses or Lands, more than one Writing is executed, and all the Writings concern the same Houses and Lands, it shall be sufficient to describe the same Houses and Lands and the Districts in which they are situate in the Memorial of any one of the Writings, and to insert in the Memorials of other Writings relating to the same Conveyance the dates of these Writings respectively with the names and additions of the parties and

witnesses, and their places of abode with a reference to the Writing whereof the Memorial describes the same Houses and Lands, and with directions to find the Registry of the said Memorial.

7th.—A Memorial of all such Deeds and Wills affecting Houses or Lands within Prince of Wales' Island and its Dependencies as shall be made or published in GREAT BRITAIN OR IRELAND, or in any Country within the limits of the Company's Exclusive Trade, and without the limits of Prince of Wales' Island and its Dependencies, shall and may be registered in case an Affidavit be sworn before any of the Judges in GREAT BRITAIN OR IRELAND, in Calcutta or Madras, or before the Recorder at Bombay or before any of the Judges at Ceylon, and such affidavit be brought with the Memorial and then produced and left with the Register, and if on such Affidavit one of the witnesses to the execution of such Deeds shall swear that he saw the same executed, and the Memorial signed or sealed, or if in such Affidavit one of the witnesses to the Memorial of any Will shall swear he saw such Memorial signed and sealed, the same shall be a sufficient Authority to the Register to give and sign a Certificate of the Registry of such Memorial, and this Certificate shall be admitted in evidence in all Courts within Prince of Wales' Island and its Dependencies.

8th.—All Memorials of Wills to be effectual and good in Law shall be registered within fifteen Months after the death of any Devisor dying in any Country within the Limits of the Company's Exclusive Trade, and within five years after the death any Devisor dying in any other part of the world. But where any persons interested in any Devise of any Houses or Lands at Prince of Wales' Island and its Dependencies, shall be disabled to exhibit such Memorial thereof within the time before limited, because of the contesting of the Will, and withholding of Probate thereof, or any other intervening and inevitable difficulty without their wilful default, then and in such cases it shall be sufficient that such Memorial be registered within six Months after the attainment of such Will, or a Probate thereof, or removal of the impediments thereto: Provided always nevertheless that in cases of concealment, or suppression of any Wills or Devises, no Purchaser for a valuable consideration, nor any Plaintiff in any Judgment shall be disturbed or defeated by any title devised by any Will, unless a Memorial of such Will is actually registered in the manner herein before directed within five years after the death of the Devisor dying in any part of the world.

9th.—No Judgment, nor any Execution issuing thereon, shall affect any Houses or Lands within Prince of Wales' Island and its Dependencies, but only from the time that a Memorial of such Judgment shall be entered at the Registry Office, expressing the names and additions of the Plaintiff or Plaintiffs, and of the Defendant or Defendants in the cause, the Sums recovered, and the time of passing the said Judgment, and the Plaintiff or Plaintiffs, his or their Executors, Administrators or Assigns, or his their Agents lawfully authorized thereto shall produce and leave with the Register, a Memorial of such Judgment, signed by an Officer of the Court where the same was given, which Memorial the proper Officer is hereby required to give such Plaintiff or Plaintiffs, his or their Executors, Administrators, or Assigns, his or their Attorney or Attornies lawfully authorized, he or they paying one Spanish Dollar for the same, and after any Judgment shall be thus registered, all the Houses and Lands which the Defendant

or Defendants had within Prince of Wales' Island and its dependencies from the time of such Registry, shall be bound thereby, and the Register shall duly file all Memorials of Judgments, in order, as the same are brought to the Office, and enter the said Memorials in the order they shall come to hand.

10th.—In cases of Mortgages and Judgments, if a Certificate shall be brought to the Register signed by the Mortgagor and Mortgagees, Plaintiffs or Defendants respectively, their Executors, Administrators, and Assigns, or Agents duly authorized, and attested by two Witnesses, whereby it shall appear that all Monies due thereon have been paid in discharge thereof, and the said Witnesses shall upon Oath before the Judge and Magistrate prove such Monies to be satisfied, and that they saw such Certificates signed, the Register shall make an entry in the Margin of the Registry Books against the Registry of the Memorial of such Mortgages, or Judgments respectively, that such Mortgage or Judgment was satisfied, and shall file the said Certificate upon record in the Office.

11th.—Any person claiming Title to any House or Lands within Prince of Wales' Island and its Dependencies upon may have any writings concerning the same which were made and executed before or since the passing this Regulation, or any Will concerning the same where the Devisor shall die after the _____ day of _____ 1802, registered at full length, and the said Register is authorized thus to register and enroll all such Deeds and Wills that shall be brought to him for that purpose. But if the said Deeds or Wills are written in any other Language or Character than the English Language and Character, then all such Deeds and Wills must be accompanied with a Memorial thereof written in the English Language and Character, and such Memorial must be of the like nature, and contain the same particulars as are herein before made necessary to be contained in the herein before mentioned Memorials of Deeds and Wills directed to be registered in abstracts, and the Register shall in the Margin of the enrolment or the Deeds and Wills which are to be registered at full length and of the Memorial which is to accompany the said Deeds and Wills, mention the exact time of the enrolment thereof, and shall endorse and sign a Certificate on such Deeds and Wills and Memorials thereof, and shall keep all the Books wherein such enrolments shall be made in the said Office there to remain upon record, and all Copies of such enrolments signed by the Register shall be good evidence in the Courts of Prince of Wales' Island, if such Deeds and Wills shall hereafter be destroyed by fire or other accident. Provided always that at the time any Deed or Will, and any Memorial thereof shall be brought to be enrolled, as aforesaid, one of the witnesses shall make oath before the Judge and Magistrate of the Settlement of Prince of Wales' Island that such Deed was duly executed by the Grantor or Grantors, or that such Will was duly signed and published by the Devisor, and that the Memorial thereof is to the Witness' belief a true Memorial, and if such Deed or Will was duly made and executed in Great Britain and Ireland or in any place within the limits of the Company's Exclusive Trade, but without the limits of Prince of Wales' Island and its Dependencies, then the same may be entered at full length, or enrolled as aforesaid, in case an Affidavit be sworn before any of the Judges in Great Britain or Ireland, in Calcutta, or Madras, or before the Recorder at Bombay, or before any of the Judges at Ceylon; and if such Affidavit be with the Deed or

Writing, or Will, or Memorial thereof produced and left with the Register, and if in such Affidavit one of the witnesses shall swear that he saw the said Deed or Writing executed, or such Will signed and published and the said Register shall duly file all such Memorials or Writings, or Wills which are to be registered at full length and enrolled as aforesaid, and which Writings or Wills are written in any other Language and character than the English Language and character in order as the same are brought to the Office, and shall register the memorials in the order they come to hand.

12th.—Every leaf of the Register Book, as it is filled up, shall be authenticated by the signature of the Judge and Magistrate of the Settlement of Prince of Wales' Island, who shall have powers to make rules and orders for the better government of the Register in the performance of the duties hereby annexed to his Office.

13th.—Every Register prior to his being allowed to perform the duty of the Office, and at the time of being sworn, as aforesaid, shall enter into a written Security in the nature of a Recognizance to be taken before the Judge and Magistrate of the Settlement, and to be filed in his Court.—This Security shall be given to the United Company of Merchants of England trading to the East Indies, and shall be made in the Penal Sum of Five thousand Dollars Current Money of Prince of Wales' Island, and shall be conditioned for the true and faithful performance of his duty as Register, and shall only become void after three years shall have elapsed from the death of such Register so becoming bound, or from his surrender of his Office, and then only provided within the said period of three years, no misbehaviour in his Office shall be proved before the said Judge and Magistrate to have been done, committed or suffered by such Register; and if any such Register or his Deputy neglects the duties of his Office, or commits, or suffers any undue, or fraudulent practices therein, or the loss of any memorials directed to be filed as aforesaid, and be thereof convicted before the said Judge and Magistrate, then the said written Security in the nature of a Recognizance shall become forfeited and shall stand as a Security for the damages sustained, and every person injured by the neglect or misconduct of the Register after proving such damages in the Court of the said Judge and Magistrate shall recover rateably thereout; and if the said Five thousand Dollars is insufficient to satisfy the whole damages sustained, the damages remaining unsatisfied shall be recovered out of the Estate real and personal of any such Register so making default as aforesaid.—Lastly. The Register shall be allowed for the Registry and Enrolment of all such Writings and Wills, and the Memorials thereof, for each Writing where it does not exceed two hundred words, two Dollars current Money of Prince of Wales' Island, and where a Writing or Will or Memorial thereof exceeds two hundred words, after the rate of one Dollar by the hundred for all the words in the said Writings, Wills, and Memorials respectively over and above the said number of two hundred words, and the said Register shall be allowed for every Certificate of Registry of any Writing, Will, or Memorial thereof, two Dollars, and for every search where no Certificate is required, or given, the Sum of one Dollar to be paid by the parties respectively applying for the same.