

Chapter Four

Making Empire: Writing the 1833 Ceylon Charter of Justice and Curial Reform in the British Empire

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Over an almost twenty year period, from the late eighteenth century, Britain obtained a number of new colonies. These acquisitions resulted from the general crises in Europe as a result of the French Revolution and the Napoleonic Wars. This acquisition, then, required that these newly acquired colonies be somehow legal integrated into the Empire. This was not just a matter of accommodating colonies which were socially, culturally, racially and legally diverse; it was a matter of folding them into the legal framework of the Empire itself. One mechanism for this 'enfolding' was the re-working, or creation of new, Charters of Justice. This chapter examines one of these charters, that of Ceylon in 1833, focusing in particular on the complex process of drafting the Charter. Ceylon, with its Roman-Dutch legal traditions, inclusion in the Eastern Commission of Inquiry (ECI), Benthamite-leaning Commissioner, experienced Chief Justice and regional and metropolitan connections, provides a unique lens for consideration of the wider process reform. The Chapter concludes that charters not only effected legal reorganisation internally to the colonies, but that together they constituted an important component of the legal framework of an expanding Empire itself, crucial to the process of new colonies to the broader empire.

Introduction

In 1833 Lord Goderich, Secretary of State for War and the Colonies, wrote to Sir Richard Ottley, former Chief Justice of both Grenada and Ceylon. His letter was with respect to the new proposed Charter of Justice for the latter colony.² The new Ceylon Charter of Justice was the final product of the Commission of Eastern Inquiry, which had begun a decade earlier in the Cape, travelled through Mauritius, and ended in Ceylon. In early 1830 Ottley had drafted a Charter for Ceylon, based, he noted, on that of the Cape of Good Hope.³ That Charter had been, however, the subject of considerable critique. It was, for example, accompanied by a letter from Marshall, then the puisne judge in Ceylon, in which Marshall noted various provisions with which he disagreed. Sir Edward Barnes, the Governor, liked it even less. Charles Hay Cameron,

the Commissioner of Inquiry appointed to inquire into judicial matters in the colony, similarly had some reservations. In the end, another new Charter was prepared in London by Cameron on his return from Ceylon, with the input of James Stephen, permanent counsel to the Colonial Office and the Board of Trade, and the Crown law officers. In response to Goderich's inquiries as to Ottley's opinion of Cameron's Charter, and his inquiries with respect to which version should be implemented – Ottley's or Cameron's – Ottley charitably agreed that Cameron's was, in the main, preferable to his. The number of drafts, and the time taken to conclude the judicial report and prepare a new charter, reflected, according to Goderich, a process of reforming the administration of justice that had been 'equally difficult and indispensable.'⁴

The new Ceylon Charter was written during a period of considerable legal reform. This is so in two aspects. First, this was, as Benton and Ford have labelled it, a period of 'rage for order'. This phrase encompasses the idea that in the first half of the 1800s there was a concentrated effort to use legal change to order "people, places and transactions". As Benton and Ford note, the impetus for law reform was "systemic, but not systematic"; it was not local, but global (Benton & Ford 2016, 1, 2-7). One aspect of this "rage for order" was the need to incorporate colonies newly acquired as a result of the peace settlements of the Napoleonic wars, into the Empire (Knapland 1953, 36-7). This was not just a matter of accommodating colonies which were socially, culturally, racially and legally diverse; it was a matter of folding them into the legal framework of the Empire itself. One mechanism for this 'enfolding' was the re-working, or creation of new, Charters of Justice (Knapland 1953, 38). While most of these new colonies retained their original legal systems – Roman-Dutch, Spanish or French – English-style institutions and procedures were commonly substituted for the existing curial and judicial frameworks. Charters, however, not only effected some form of legal reorganisation internally to the colonies – an important goal in itself on the journey to Benton and Ford's 'rage for order' – but more than that, together they constituted an important component of the legal framework of an expanding Empire itself, crucial to the process of binding colonies, particularly new colonies, to the broader empire.

The second aspect relates to the general law reform movement in Britain itself. Although significantly hampered by the ructions of war, curial and procedural reform – particularly to Chancery – had never entirely fallen off the agenda. While, as Holdsworth once noted, in the war years "the cause of reform was never wholly abandoned", the movement was to regain impetus in the years following peace (Holdsworth 1940, 33). Although Lord Brougham's

famous six hour speech in 1828 in the House of Commons calling for reform is sometimes pointed to as the beginning of the nineteenth century reform movement, by that time there had already been innumerable Royal Commissions and other inquiries into the state of the law – not just in England but in Scotland as well (Brougham 1828; and on Brougham and law reform Lobban 2000). Colonies – in particular both the newly acquired colonies and the new ‘settled’ colonies – not only required integration, but provided canvases for significant Colonial Office enthusiasm for curial and procedural reform. If the commercial fabric of colonies (and hence of the Empire more broadly) was to develop – a matter crucial in an Empire which was a financial drag on the metropole – then it required locally adapted and appropriate functioning civil justice systems through which merchants, traders and subjects could enforce debts and contracts.

This chapter focuses, then, on one of the new Charters of the period, that of Ceylon, finalised towards the end of a decade of substantial reform. Knapland once remarked on this period of Charter-making, noting that a number of “charters ... were drawn up at home and put into force in Crown colonies” (Knapland 1953, 38). This is true, to some extent, but it should not convey the idea that Charters were all drawn up in the Colonial Office and imposed on colonies. Local officials and reformers had a hand in the final form of many of these Charters – and Ceylon is a key example. The chapter looks less at the content of the new charter – although that is briefly discussed – and more at the process of reaching the charter’s final form and the parties involved in its writing. The process reminds us of the complexity of the inter-connections of people and places across the Empire. And while the case of Ceylon was in some ways unusual, with so many connections between people and places contributing to the process, it nevertheless serves to remind us how global local reform could be. A number of colonies could have been selected as a point of departure for thinking about reform in this period: each has a unique reform history and together they narrate a particular account of governance and legal re-ordering in the British empire in the first half of the nineteenth century. Ceylon, however, with its Roman-Dutch legal traditions, inclusion in the Eastern Commission of Inquiry (ECI), Benthamite-leaning Commissioner, experienced Chief Justice and regional and metropolitan connections, provides a unique lens for consideration of the wider process reform. In short, centring an account on Ceylon sharpens our focus on the key common aims of reform in this period while also highlighting the degree of diversity in legal ordering that was ultimately maintained across the Empire.

Ceylon in Empire

Over an almost twenty year period, from the late eighteenth century, Britain obtained a number of new colonies. These acquisitions resulted from the general crises in Europe as a result of the French Revolution and the Napoleonic Wars. They included Demerara-Essequibo and Berbice (later combined to become British Guyana), St Lucia, Trinidad, Tobago, Ceylon, Mauritius, Malta, and the Cape of Good Hope. At the same time, Britain also ‘settled’ a number of supposedly uninhabited colonies – New South Wales, Tasmania and Western Australia. More were to follow across the 1830s. All needed in some way to be integrated into the legal framework of the British Empire. Importantly, all had in common – due to their methods of acquisition and, subsequently, modes of governance – that they were Crown colonies (Manning Ward 1976, 82-3). That conquered and ceded colonies were to be governed by Royal prerogative (and thus under direct Crown control) was long established and a number of colonies were governed, more or less directly, by the Crown prior to this time. Moreover, Crown colony arrangements, coming as they did as a response to wartime necessity, were not meant to be permanent. Despite this, by the end of the third decade of the nineteenth century the Crown colony was emerging as a distinct constitutional form (Penson 1926), demarcated now as such not because of a colony’s original method of acquisition, but because of their form of governance. In this period, then, the Crown colony was coming to mean essentially governance through the exercise of the Crown prerogative, delegated to a local Governor, who governed without representative institutions and who supposedly remained largely uninvolved in judicial matters.⁵ Governance by prerogative gave the Imperial government significant ability to control those colonies. As Liverpool once noted in the particular context of slavery (but equally applicable to the context of curial reform): “[w]ith respect to those colonies to which constitutions have not been given (that is those captured during the last war) our rights are unquestioned and unquestionable. We may proceed experimentally in those colonies if we think proper....”⁶ The necessity to integrate these colonies more closely into the Empire brought with it, then, the constitutional means to do so.

One matter which was crucial to the process of bringing these colonies more firmly within the Empire was the question of their legal systems and accompanying institutions. Should they retain their own curial institutions, offices and laws? Or should English law, courts and offices and procedure (or some hybrid combination) be substituted? The new colonies added a significant number of places in which the dominant legal system was not the common law to

Britain's Empire. At Ceylon and the Cape and in British Guyana Roman-Dutch law was retained. In Mauritius the Code Napoléon was retained and in Trinidad Spanish law was the law of the colony. St Lucia was governed according to a combination of the Code Napoléon and old French criminal law. Malta had its own code. Part and parcel of this retention of civil law was the accompanying curial institutions and offices derived from those legal systems. And, of course, in a number there were indigenous legal systems under which a large proportion of the population continued to live and to govern themselves – a matter to which little attention was paid in subsequent reforms.

In 1823, a new Royal Commission – to become known as the Eastern Commission of Inquiry (ECI) – was appointed. Commissions had a long history in England, dating in some form or other from at least the reign of Henry II. By the early nineteenth century they had again become a commonly used tool for gathering information, reporting in this period on a raft of issues from accidents in gaslight establishments to peat bogs in Ireland (Clokier & Robinson 1969, ch 2). As Benton and Ford note, in this period, however, the increased use of commissions of inquiry in the Empire context became not just the marker of a new “governmentality” but were part of an “ambitious effort to produce a coherent British imperial order”. They were central to the project of ‘reordering the Empire and redesigning British Imperial law’ (Benton & Ford, 2016, 57, 59). Collecting data from across the Empire was crucial: unless one could understand how the Empire worked, how could it be reformed?

Appointed in 1823, the remit of the Commission of Eastern Inquiry was broad and covered general governance, civil and military establishments and financial and judicial institutions. It was the most extensive and long-running of the various commissions which inquired into a number of Britain's colonies in the 1820s and early 1830s. It encompassed three colonies – the Cape of Good Hope, Mauritius and Ceylon. In the first two, there was significant pressure from colonists to remedy local problems as well as localised instantiations of wider imperial problems, such as slavery. Evangelists and members of the anti-slavery movement (both at the Cape and in England) were pressuring the metropolitan government to investigate slavery.⁷ Locally at the Cape, British settlers were also increasingly unhappy that their disputes were being adjudicated according to Roman Dutch law, before courts which bore insufficient resemblance to those of England (Benton and Ford 2016). In Mauritius the unlawful trade in slaves was pressing, and of particular local concern was the treatment of domestic slaves by the Chief Justice George Smith.⁸ By contrast, as Samaraweera notes, Ceylon was considered a

well-run colony (Samaraweera 1969, 13-14). It was, however, expensive and had been in deficit since British acquisition. Thus, in an era when economy was becoming the mantra for managing colonies, Ceylon could not escape the Commission of Inquiry.⁹ In the end, Ceylon was the last stop in what was almost a decade of investigation.

The terms of inquiry were sent by Bathurst to the newly appointed Commissioners, John Bigge and William Colebrooke, by January 1823. In terms of judicial matters, the Commissioners were instructed that '[t]he judicial enquiry will embrace the whole system and administration of civil and criminal justice, including the conduct and regulation of the police; and the jurisdiction separate and concurrent of the Courts of Admiralty. The introduction of the English language in the courts of law, and in all public proceedings, connects itself with this branch of your investigation'.¹⁰ Bigge, a former Chief Justice of Trinidad, was fresh from finalising the Royal Commission into the State of the Colonies of New South Wales and Van Diemen's Land. Colebrooke, who was the only Commissioner to stay the course of the entire duration of the ECI, had served in the military in various places, including Ceylon, from 1803-1820. Reflecting the scale of the inquiry, a third Commissioner, William Blair, was added in 1825. By the time the Commission reached Ceylon in 1829, Colebrooke was the sole remaining commissioner, both Bigge and Blair having resigned due to ill-health. Thus, in 1830 Charles Hay Cameron was appointed as the final ECI Commissioner, with the specific task of undertaking the Judicial Report for that colony. Cameron was not the first or even second choice to replace Blair. The position was originally to have been offered to Fortunatus Dwaris, who had just completed the Commission into the State of the Laws in the West Indies. Instead, Campbell Riddell was appointed.¹¹ Riddell travelled to Ceylon, but only four months after his appointment was replaced by Cameron and instead sent onwards – not without understandable complaint – to be Colonial Treasurer of New South Wales.¹² By the time Cameron arrived in March 1830, almost a year after Colebrooke, Colebrooke, aided briefly by Riddell, had completed much of the process of interviewing witnesses and viewing trials.

While this chapter will focus on the main actors – officials such as Barnes, Ottley and Cameron – the witnesses, petitioners and others who gave evidence or were otherwise involved should not be overlooked. Many expressed views, often unhappily and vociferously, as to the issues that needed to be addressed and what was needed reform-wise in Ceylon. Equally, however, the ultimate form of the Charter owed much to Cameron and his Benthamite leanings. As Samaraweera notes, Cameron's reliance on the evidence collected, and views of others, could

be ‘selective’ (Samaraweera 1974, 265). Had Dwariss been appointed, or Riddell remained Commissioner, the Charter may well have looked very different.

A Timeline of Drafting: People, Ideas, Connections

The 1833 Charter sat at the end of a decade of significant reform of curial institutions and judicial offices in the British Empire. Reform was an ongoing and endless process across the Empire. The first substantial new Charter of the previous decade, the Charter of Justice for New South Wales and Van Diemen’s Land, was in fact the third charter; reforms to the jurisdiction and practices of the Crown courts in the Indian Presidencies were constant. But in the decade previous to the Ceylon Charter there had been a particular flurry of activity with respect to many of Britain’s newest colonies. Moreover, while royal commissions had visited a number of these colonies, there was no direct correlation between visits by a commission and a new Charter of Justice. Some colonies were inquired into by commissions, but no new Charter, or in fact any real reform, resulted. Others were not part of the revolving commissions, but nevertheless reformed their curial institutions and offices (for example, Newfoundland). And in those places which were visited by commissions, uptake of recommendations was patchy and often derailed by both imperial and local politics. What they all had in common was that they were Crown colonies.

Sir Edward Barnes suggests yet another Charter

Charter reform had already been the subject of consideration well before Cameron arrived in Ceylon. The original 1801 Charter had been amended a number of times, each time by creating an additional charter (as well as several proclamations) which modified or repealed provisions of the previous charters, rather than creating a new and comprehensive charter. By 1821, Sir Edward Barnes, newly appointed Lieutenant-Governor, was of the opinion that the Charter was overdue for further amendment. According to Barnes, the original charter had itself been ‘as nearly as possible’ copied from that at Madras (and this contention is borne out by a comparison of the Charters).¹³ Barnes submitted a draft of the proposed changes to the Colonial Office. In keeping with previous practice, however, his approach was, rather than drafting a new Charter, to create an additional charter which would repeal, or significantly amend, parts of the earlier Charters – a process which would have resulted in a fourth extant charter.¹⁴

Barnes was, as were so many Governors in the Empire at the time, a military man. He had many of the connections required for colonial appointment. A decorated soldier, he took part in a number of campaigns across the empire, including the capture of Martinique and Guadeloupe, after which he was appointed Lieutenant Governor of Dominica (1808–1812) and was gazetted Lieutenant Governor of Antigua in December 1813, although he did not take up the appointment.¹⁵ He had, therefore, some experience in the colonies and as colonial administrator. He later served in Spain and Portugal and commanded brigades in various European battles during the peninsula war (Dalton 1904, 29). He was Adjutant-General to Wellington and was wounded during the battle of Waterloo. From 1819 he served in Ceylon, where he was also made Lieutenant-Governor. Barnes' proposed amendments were motivated by what he perceived as issues in the relationship between the Governor and the courts, pointing out that the provisions from Madras were inappropriate as the Governor held a different place in the constitutional order in Madras than in Ceylon. There were other issues. Overall, the proposed changes were a list of matters Barnes thought needed attention – from salaries and the ranking of judges, to appeals, to the power to appoint officers, to the power to make rules and orders. His proposals reflected a pragmatic approach, based on administrative necessity. There were issues to be fixed. A new additional charter which simply addressed those issues was the most expedited approach.

The following year, Wilmot-Horton, then Under-secretary of State for War and the Colonies (and later himself Governor of Ceylon, replacing Barnes in 1831), penned his 'observations' on the proposed changes. Many of these he thought were not unsensible; including extending the jurisdiction of the Supreme Court beyond those 'known as' Europeans to include their descendants (and here the intention was to specifically include descendants who were not 'known as' European) and to make it easier for those enforcing debts against Europeans to do so in local courts, without the need for a trip to Colombo. Others he was less certain about. For example, while he agreed entirely with the need for an immediate right of appeal to a local body from the Supreme Court (rather than the Privy Council), he was unconvinced by the suggestion that the Chap; body consist of the Governor and the very same judges who rendered the original decision, a variation on this system which he thought had not worked in the Canadian colonies. In the end, however, Wilmot-Horton's real concern with Barnes' proposal was the pastiche quality of the suggested changes. Would it not, he queried, be better to draft

a new Charter – one comprehensive of the proposed changes and the extant provisions of the previous three Charters?¹⁶

And there the matter stalled. By 1826 a new charter had been on the agenda for some years – the subject, as James Stephen noted, of “much correspondence”. Stephen, it seems, had been charged with producing a new Charter the previous year (1825), but had counselled delay as the ECI had begun its work and would eventually make its way to Ceylon. Charter reform should therefore, he thought, await Commissioners’ investigations. But in November of 1826 Stephen wrote to Robert Hay (Permanent Under-secretary at the Colonial Office) noting the volume of correspondence and asking if he should he therefore now simply draft a Charter. Or would it continue to wait for the Commissioners?¹⁷ And again the process was held in abeyance.

Sir Richard Ottley at the Cape

By the time Cameron arrived, almost a year after Colebrooke in March 1830, Colebrooke had already undertaken much of the work, including inquiries into the judicial system. One of the witnesses interviewed by Colebrooke prior to Cameron’s arrival was the Chief Justice, Sir Richard Ottley. Ottley had been appointed puisne judge in 1819 and Chief Justice in 1827.¹⁸ Originally from the West Indies, son of Drewry Ottley, Chief Justice of St Vincent, he had attended St John’s College, Cambridge and had been admitted to Lincoln’s Inn in 1802.¹⁹ In 1814 he returned to the Caribbean, serving as Chief Justice of Grenada until 1820, at the same time as John Bigge held the post of Chief Justice of Trinidad. The appointments of both crossed those of George Smith, now Chief Justice of Mauritius – the second stop for the ECI – but previously himself the holder of both of these West Indian Chief Judgeships. Ottley was, then, an experienced colonial judge, who had served for a number of years in a colony which, similarly to Ceylon, had the difficulty of a foreign legal system and court structure.²⁰

In January 1830 Ottley submitted his written evidence to the Commissioners. A month later he wrote to Colebrooke about his approach to drafting a new charter and offering to send an early draft, which he described as an ‘unfinished sketch’.²¹ From here, the timeline becomes messy, showing, as Goderich intimated in his despatch to Ottley in 1833, the complexity of reaching a final charter and the range of (different) views, by various actors with varying experiences in the Empire, as to what was required in a new instrument. In October 1828, the Secretary of

State (despite the previous policy of waiting for the Commissioners' inquiries to proceed) had 'commended' a draft Charter to be prepared, requesting Barnes in turn to ask the Supreme Court judges to undertake this task. It took almost a year for Barnes to pass this request to the Judges.²² By January 1830 Ottley had drafted the required document. But prior to sending his draft, Ottley conferred with his puisne judge, Charles Marshall, who stated that he wished to prepare yet another draft charter jointly with Ottley, as Marshall, according to Ottley "entertain[ed] considerable doubts as to some points of my proposed alterations". Ottley, however, persisted, noting he intended to send his draft in any case as he had "little doubt of the expediency of every measure...". While he agreed Marshall should be consulted, he wrote that he was confident that his "present plan is the best".²³ Nevertheless, Ottley and Marshall attempted yet another – this time joint – draft, but could not reach agreement on key provisions. The result was a draft – presumably more or less Ottley's original draft – with extensive comments by Marshall.²⁴ Barnes also made marginal comments on the draft. While Barnes had specific issues with various proposed clauses – the general tenor of which was disagreement as to which institution, legislative or judicial, should have certain powers – overall he doubted the wisdom of Ottley's approach in drafting an entirely new charter, rather than, as he himself had proposed almost a decade before, simply amending the existing ones in a few small areas. "So great a change" was not required. He was also concerned by Ottley's reliance on the Cape Charter as a model, given "the very different circumstances of the colonies" (the "wealth and intelligence" of the predominantly European population using the courts at the Cape, versus the "poor, ignorant people of this Island" who used the current courts with "ease and familiarity".)²⁵ It took almost a year to comment and transmit the draft to the Colonial Office. By the time it reached the Commissioners, they were already ensconced back in London, preparing their final reports.²⁶

If Ottley's draft was based on that of the Cape, it may have been that this constituted a kind of 'closing of the loop'. In 1823 Ottley sojourned at the Cape. The Cape was then a 'health resort' for civil servants, colonial administrators and the military from India and Ceylon and that was the reason for Ottley's journey.²⁷ During his time at the Cape he became involved in local activities, joining and becoming a subscriber to, for example, the Settlers Fund Society, a society of which all three of the then Commissioners of Eastern Inquiry (Bigge, Blair and Colebrooke), as well as the missionary John Philip, were members. According to Macmillan, during his visit, Ottley involved himself in an unofficial capacity with judicial matters. 'Many distinguished visitors from India' were drawn to Philip's company and home, and these

included Sir Richard Ottley. Macmillan tells us that, according to Philip's own notes, Ottley and Philip 'discussed the whole question of a judicial system for the Colony and a scheme for the establishment of such a system drawn up by Sir Richard is still amongst his papers' (Macmillan 1927, 190). The only (so far) extant retained copy of Ottley's plan were destroyed by fire on Christmas Eve 1931.²⁸ All that remains are these few pages of 'John Phillip Notes' as quoted in Macmillan. Macmillan, at least, seemed convinced that the Cape Charter, when finally promulgated in 1827, was based squarely on Ottley's plan. What details can be discerned about the plan from Philip's brief notes about Ottley's suggestions do track much of the 1827 Cape Charter. However, Ottley's suggestions as reported were broad brush and conventional for the period and could describe a number of charters that followed across the 1820s: the issuing of a Crown Charter; a Supreme Court, with appeal to the King in Council; judges independent from the Governor; the replacement of the Fiscal with an Attorney-General; and the introduction of the jury system, albeit with the caveat that it should not be used in cases between Black and White (Macmillan notes that this last suggestion – the introduction of a jury – was not taken up). Philip was not only keen for reform but hoped that Ottley could be secured for appointment at the Cape (Macmillan 1927, 190-191). In drafting his relatively conventional Charter for Ceylon, Ottley's marginal comments specifically noted that it was, in turn, based on that of the Cape.

While Ottley's Charter may have been based on that of the Cape, it is unlikely that the Cape's was based on his 1823 intervention, despite the similarities of some provisions. The ECI Commissioners finalised their report on the Cape in September 1826. The investigations had been lengthy. They had met and questioned and socialised with an array of people, including John Philip (Macmillan 1927, 191). That Report recommended significant alterations to the judicial establishments of the colony. These included the shape of new judicial institutions (a complicated Eastern and Western dual court arrangement with cross-appeals), odd provisions for the ordering of new trials, and the assumed replacement of Roman-Dutch law with English law (including Chancery), practice and procedure. After after the usual self-deprecating comments that of course his opinion was entitled to *no* weight compared to that of the Commissioners who had so diligently undertaken lengthy inquiries, James Stephen was excoriating in his rejection of the principal recommendations. Rather, he recommended a new Supreme Court of the Western Cape, administering criminal and civil law, with no separate equity court, *vivâ voce* evidence in open court before judges who determined matters by majority, in the English language. The peculiarities of English special pleading were to be

avoided. Stephen concluded his appropriately polite demolition by noting that, if Lord Goderich were pleased to approve his “narrowing” of the Commissioner’s recommendations, he (Stephen) would draft a Charter.²⁹ A Bill was prepared – with input from the Crown Law Officers.³⁰ While Stephen did not entirely get his own way – his recommendation to leave the introduction of circuit courts to be determined locally, for example, was ignored – overall it was Stephen’s recommendations which were adopted.³¹ This then was the Charter – whatever Ottley’s plans may have been in 1823 – from which Ottley later took his inspiration for Ceylon.

Charles Hay Cameron and the Utilitarians

By mid-1831 the Commissioners had repaired to London to finalise their reports, hiring offices in Downing Street. Some six or seven months later they submitted their reports – Colebrook submitted two reports on the Administration of Government and on Revenue, Cameron the report on Judicial Establishments.³² Several weeks later Hay conveyed to Cameron Lord Goderich’s approval of the report – ‘his approbation of the clearness with which you have developed a subject of no common intricacy’ – and asked him to draft a new Charter (but at the same time requested that the Commissioners explain the cost of coal in their Downing Street office).³³ The Ceylon Charter is probably the best known of the charters of the period. Samaraweera labelled it a ‘Benthamite Blueprint’ (Samaraweera 1974).

Of the jurists and colonial administrators in this chapter, Charles Hay Cameron is by far the best known, and yet his entry in the *Oxford Dictionary of National Biography* concludes “[s]ince his death ... his reputation has been eclipsed by that of his wife, and he has been remembered primarily as the husband and photographic model of Julia Margaret Cameron” (Stephen (Stern) 2009). The compendious *History of the Camerons* merely notes his marriage and issue (Mackenzie 1884, 280). Cameron came from what might be described as an empire family. Various family members were colonial administrators; his father was Civil Commissioner of Malta and Governor of Barbados. He was admitted to Lincoln’s Inn, listed – as were so many who made across careers in the Empire – as a special pleader on the Northern Circuit. He was later described by Sir Henry Taylor as a “Benthamite jurist” (Taylor 1877, II, 33) and Lesley Stephen as “a disciple, and ultimately perhaps the last surviving disciple, of Jeremy Bentham” (Stephen 1886, VIII, 289).

Cameron was what might be described as a peripheral member of the London utilitarians, initially through his childhood school friend George Grote (classical historian, MP and reluctant banker). In the late 1810s Cameron joined a group of like-minded individuals who met at Grote's house in Threadneedle Street twice a week to read political economy with James Mill. Attendees included, amongst others, JS Mill, David Ricardo, Charles Buller, John Austin and William Cavendish-Bentinck (later Governor-General of India). The utilitarians were both his intellectual and social circle (Grote 1873, 42). In 1821 the Political Economy Club was formed – Grote was one of the founders – and restricted to 30 members. New members could be put up on the resignation or death of a current member and were then chosen by ballot. On visiting the club in 1831, on his return from Ceylon, Cameron was proposed as a new member, and elected the following year (*Political Economy Club*, 12; *Minutes and Proceedings*, 108). When in 1823 Bentham funded and founded the *Westminster Review*, Cameron was one of many who contributed – admittedly in a small way, his main contribution being on duelling and “the character of gentleman” (Cameron 1925). In 1829 Grote nominated Cameron for the Chair of Moral and Political Philosophy at the newly established University College London, but he was not appointed, allegedly, says the *Oxford Dictionary of National Biography*, because of the possible scandal of having two illegitimate children (Stephen (Stern) 2009). Another suggestion (perhaps not unconnected) is that the problem lay in Cameron's “doubtful orthodoxy” (Samaraweera 1974, 264). According to Zachary Macaulay, a member of the UCL council, evangelical Christian (and father of Thomas Babington Macaulay), “there can be no teaching of ethics except on a religious basis” (quoted in Wolff 5).

Ceylon provided an opportunity for Cameron to put Benthamite thinking into practice. Cameron's Report made some 25 Recommendations. The result of the Report was a request for Cameron to draft a Charter, although it should not be supposed that Cameron was given entirely free reign with this. As Goderich pointed out, not all 25 were executed either at all or without modification.³⁴ The final shape of the Charter also owed something to a raft of other parties – Stephen and Hay at the Colonial Office, the Crown Law Officers, Marshall in Ceylon. Nevertheless, John Stuart Mill stated in the *Westminster Review* of Cameron's exertions that Ceylon was the only country with a judicial system:

“...constructed on the best conceptions of philosophic jurists – a system in which, without any servile deference to the authority of Bentham, the principal improvements made in the theory of the subject by that great man have been, with

due consideration of local circumstances, adopted and carried into practice” (Mill 1838, 395).

It was also, as Samaraweera notes, a system which was “almost entirely alien to the people of Ceylon” (Samaraweera 1974, 265).

Cameron began his report with the “special objects” of judicial establishments and procedure. There were two goals or guiding principles: “[t]o render it as easy as possible for any man to enforce his rights through the medium of a court of justice”; and [t]o render it as difficult as possible for any man to inflict injury upon another through the medium of such courts as have been indicated above”.³⁵ As Samaraweera notes, having set these out, Cameron then “unhesitatingly rejected every measure, irrespective of whether it received the sanction of local tradition or the weight of the authority of the English system, which did not conform to them”. Prior to Cameron’s arrival, Colebrooke had undertaken the task of collecting evidence relating to the judicial system. He was thorough, and Cameron did not feel the need to add to his exertions. Cameron’s approach was not simply a response to the evidence collected. In some ways that was the approach of Barnes, Ottley and Marshall – to identify perceived problems or lacuna based on their personal experience and evidence collected and then to provide a response to each. Rather, as Samaraweera notes, Cameron’s approach was “coloured” by “Benthamism” (Samaraweera 1969, 125). He set out a list of recommendations, each had a conceptual justification, and each was then backed up by evidence collected. His concern was not so much the rectification of specific problems as the provision of a coherent framework.

It is not necessary to provide a detailed evaluation of Cameron’s proposed reforms against Bentham’s jurisprudence. Indeed, Samaraweera has already undertaken much of this task (Samaraweera 1969; 1974). Here three key features of the proposals might be highlighted. First was an insistence that courts and procedure be uniform across Ceylon, which at the time was made up of the distinct Maritime provinces held by the British and the former Kandyan Kingdom. While Samaraweera notes that “[a]s a Benthamist, Cameron could not admit that the inhabitants of the two regions had special needs in judicial administration” (Samaraweera 1974, 265), Cameron was hardly unique in his views. That too had been Ottley’s main consideration in formulating his Charter: what was critical he wrote to Cameron was to finally “subject the whole Island of Ceylon to one uniform and consistent system of jurisprudence; this system to be enforced by one court which is ... to exercise its jurisdiction over all persons and in all

matters”.³⁶ Cameron foresaw no problem in imposing the same institutions on different places with different laws – Kandy and the Maritime Provinces – noting that as the existing systems in both were the creations of the British government they could hardly have “in the eyes of the natives anything of the sanctity of religion or of antiquity”.³⁷ This recommendation was heartily endorsed by all, from the Ceylon Law Officers Moring and Perring (“its propriety ... is unquestionable”), to Marshall and Ottley, to the Attorney General and Solicitor General in London: “a great improvement on the administration of justice”.³⁸ The lack of opposition was hardly surprising – the recommendation bound Kandy more closely into the colonial polity and sat not uncomfortably with the visible shift in this period from personal jurisdiction towards jurisdiction based on territory and the consequent elision of territory and sovereignty.

The second recommendation was that jurisdiction be based on geography, rather than a traditional divisions of laws.³⁹ Thus courts should have exclusive jurisdiction over all matters – criminal or civil – within their districts, rather than dividing judicial business by civil, criminal, legal or equitable or similar. In *Scotch Reform* 1811 (a work which, despite its title, was also a trenchant criticism of English practice and procedure), Bentham had strongly advocated that “[d]ivision of jurisdiction [be] performed purely on *geographical*, not on *metaphysical* (or say *logical*) principle”. No distinction, then, should be made, he maintained, between Pleas of the Crown, Common Pleas, between Law and Equity. This was opposed to the then system which he stated led to “*bandying* the cause from court to court” (Bentham 1911, vol v, 5). Again, this recommendation excited no opposition from the various law officers and was implemented with some minor modifications.⁴⁰

Third, in other parts of the Empire in this period, Charters left matters of procedure to be determined by the judges. Indeed, it was of great satisfaction to Goderich that doing so had resulted in considerable reforms: “it had been possible [in colonies] to prune with an unsparing hand that system, to the effectual reformation of which in this country, the local impediments are so many as to be almost insuperable”⁴¹ Cameron, however, gave as much thought to the code of procedure that should accompany the new courts as he did to the shape of the institutions themselves. Procedure was, to him, inseparable from the shape of the institutions themselves. What was critical, according to Bentham, was to “to supply justice to all at least expense”, to avoid delay, vexation and expense (Draper 2004, 1). For Bentham, the procedural system was crucial to the “achievement of justice”. “Bentham identifie[d] the power invested in the system of procedure in its role as the link between available evidence and correct

decision” (Draper 2004, 7). Bentham took particular aim at English procedure and pleading in *Scotch Reform*. The collateral purpose of a system of procedure was to reduce the burdens incumbent upon both parties to a suit; that is, to reduce the delays, the vexations and expenses involved in pursuing civil litigation. His critique was wrapped in an attack on the legal profession and judges, whom he saw as self-consciously abusing the system. The complexity of civil justice, he believed, was deliberately designed to increase fees for those groups (Bentham 1811, vol v, 5-6; Draper 2004, 9).

Recommendations 4 to 13 effectively set out the main procedural concerns, from pleadings by oral altercation in open court, to a requirement for *vivâ voce* evidence, to cross-examination, penalties for attempting to pervert the course of justice, abolition of stamps and fees, and the public payment of the costs of witnesses.⁴² Cameron proposed a kind of ‘natural procedure’, akin largely to summary procedure, similar to those found in Bentham’s “Arrangements of Natural Procedure” (as contrasted with “Corresponding Devices of Technical Procedure”) (Bentham 2011, vol v, 6). They were, to varying degrees, however, elements of reform also instituted in other parts of the Empire in this period. What linked these recommendations was Cameron’s perception of the general “ignorance and mendacity of the natives” and “the want of competent practitioners”. Thus all matters should be conducted in public, under the superintendence of a European judge. The judge, then, takes a paternal role, allowing parties to relate their stories, being counsel for both and aiding them to put their stories in proper form. Pleadings were unintelligible, made in secret, lacked veracity and there was no punishment for knowingly making a false claim. *Vivâ voce* evidence and cross-examination would reveal the truth of statements, while the power to punish and fine for knowingly perverting justice would eliminate falsehood and prevarication. Fees were merely taxes on the oppressed and innocent: those who come *bona fide* should have justice gratuitously, while those who come *male fide* should be made to pay by fine for abusing a privilege.⁴³

The idea of an active role for the judge in setting litigation on its course was not new. In this period much space in both legal periodicals and the press was devoted to the problems of pleading. James Mill, for example, advocated that in order to determine that the facts in any matter were those and those alone that were required for the issue the judge should be actively involved. The parties should meet in the first instance in the presence of the judges. For Mill, the problem with the current system was that the written pleadings all occurred “in secret, and in writing”, so that by the time they reach the judge “then some flaw is perhaps discovered in

it, whereupon he quashes the whole, and sends it to be performed again from the beginning” ((Mill 1825). Bentham’s general dislike of writing was not confined to pleadings. He also required parties to appear personally at the outset; that there be no writing except in the character of evidence, and then only as minutes of *vivâ voce* evidence.

Perhaps unsurprisingly, the recommendations on the abolition of fees and taxes found little support, either from the Colonial Office or the Crown Law Officers. These were matters of significant correspondence. The issue of the cost of the maintaining the courts aside, the basis for these recommendations simply articulated a view of the administration of justice to which Goderich could not subscribe: litigation was not, he maintained, an ill to be repressed; judges were not the redressors of wrongs but rather were an authoritative arbiter; nor could litigation be divided into classes of dishonest suitors and oppressors and the honest suitor who is the oppressed.⁴⁴ In the end, not just these recommendations, but in fact the majority of recommendations 5 to 12 were not included in the Charter. Again, this can be traced to disagreement by Goderich with Cameron as to the role and power of judges and the relationship of procedure to institutional shape. Buoyed by the success, as he saw it, of giving judges the power in other colonies to shape their own rules and procedures, Goderich preferred to leave this to the judges themselves.

By May 1832 Cameron’s draft Charter was with the Colonial Office.⁴⁵ From there it was hardly a straightforward line to a final charter. Across a nine month period there was a flurry of activity, both in London and Ceylon. The report and the draft were examined and commented on by a raft of people: Marshall again intervened, asking for a draft and providing his opinions as to the proposed civil jurisdiction of the Supreme Court; Wilmot-Horton (formerly of the Colonial Office, now Governor, and the man who had not been minded to accept Barnes’ recommendations a decade before) requested that the Ceylon Law Officers (Perring and Moring) provide a report on key recommendations in the report; Wilmot-Horton also sent all three ‘plans’ to William Rough for his thoughts. Rough had just been appointed puisne judge in Ceylon – and would go on to replace Marshall as Chief Justice in 1836. In London, the Attorney General and Solicitor General provided examined the final draft. By February 1833 it was all over – orders in council were drawn up and the new Charter was issued.

Making Empire: Concluding Comments

By the time the final form of the charter was drafted, it had undergone what was undoubtedly the most protracted drafting process of any charter in the period. Most charters had been drafted either by one or two local officials, with input from the Colonial Office and occasionally the Crown Law Officers, or more commonly, by the Colonial Office itself. In the case of Ceylon, many different officials, with different agendas, connections and views as to what a charter should look like, had drafted, commented on, critiqued and refined various versions, the recommendations and the final charter itself. Nevertheless, in the end it was Cameron's draft which prevailed – a instrument which attempted to both show fidelity to his Benthamite roots and to craft a document which responded to local conditions. In the end, the Crown Law Officers declared it “well adapted to the purpose in view”, “although”, they noted, “it varies from the precedents usually followed on similar occasions”.⁴⁶

Implemented in 1833, the future of Cameron's Charter turned out to be anything but plain sailing. From the beginning there were “voluminous” complaints about the administration of justice in Ceylon and the form of the courts under the Charter (Samaraweera 1974, 274). This was, it seems, only exacerbated by attempts to ameliorate the problems by amending the Charter in 1843. By the 1850s it been the subject of sustained critique. More research would need to be undertaken to understand exactly where the defects lie – there are suggestions that some of the problems lay in subsequent implementation and administration of civil justice, rather than the form of the charter entirely, while others were more directly attributable to the original recommendations.⁴⁷ As Samaraweera notes, one of the “surprising” critics turned out to be James Stephen, who had both had a hand in the final draft and approved of the form: “this Ceylon Charter”, he wrote in 1842, just before the amendments of 1843, “was a pure innovation... based on speculation, chiefly those of Bentham”.⁴⁸ So why did the Colonial Office embrace such a different charter and, more importantly, what does that tell us about institutional form and making empire in this period?

First, while the Ceylon Charter may not have followed the precedent of other charters in the period, it nevertheless achieved several of the key aims of the Colonial Office in regards to charter reform and, specifically, curial reform. It added to a network of new Charters across the empire which were not only key to integrating new colonies into the empire, but which in fact were critical components of the new, re-shaped, legal order being crafted as a response to

the concerns that Benton and Ford identify (Benton and Ford 2016). Charters of course not only established new curial institutions; they set in place the constituent components of governance in the colony – including implementing the new governance model of the Crown colony. Beyond this, however, the ability of the Crown to affect direct reform in these Crown colonies enabled the Colonial Office to insist on allied curial and procedural reforms which promoted speedier, cheaper civil justice than possible in England at the time. Across the Empire, from the Cape to Newfoundland, and Ceylon to Gibraltar, the Colonial Office insisted on institutions and procedures which lowered the cost and complexity of access to civil justice, encouraging diversity and simplification (Dorsett 2017). The Ceylon charter may have been different in form, but it was crafted to respond to similar concerns and to implement the same ideals.

Knapland classes Stephen as “among the utilitarians” and as “affected by Benthamism”, noting he sympathised with those who advocated for the reform of the criminal law. Knapland relates that Stephen was an intimate of Nassau Senior (Knapland 1953, 15-16). Senior was the Drummond Professor of Political Economy at Oxford for much the 1820s and was elected a member of the Political Economy Club in February 1823, not long after its formation (*Political Economy Club, Minutes of Proceedings* 1882, 65). While Stephen took no active part in the Club’s proceedings (being listed as attending only one meeting in 1841) – and regardless of whether he can be considered to have Benthamite leanings – his aims of simplifying civil litigation, and thereby enabling the growth of nascent economies across the Empire, sat comfortably with their (broadly put) concerns and aims. Notably, in the 1820s and 1830s Stephen was one of the Chief advocates for reforming civil institutions and procedures to ensure cheaper, speedier access to civil justice, lauding particular reforms, and excoriating those which did not achieve these goals (Dorsett 2017).

Second, the Ceylon charter is a particular example of another phenomenon: under an emerging legal framework – a network of new charters and their institutions which bound colonies into the constitution of a newly shaped empire – sat considerable diversity in implementation and a willingness by the Colonial Office to encourage diversity where it led to outcomes suited to the particular conditions of a particular colony. The integration of the new colonies, with their foreign legal systems, did not lead to any assumption, for example, that the common law would become the law of the empire. Their institutions tended to reflect those of the legal system administered, often with a peculiarly English overlay of offices and procedures. Moreover,

while those colonies in which the common law was the law of the colony tended to have similar superior court structures implemented in their new charters, their minor courts, offices and procedural simplifications often varied considerably. Ceylon was, simply put, a more overt instance of a particular phenomenon. In the end, the Colonial Office could have chosen Ottley's more conventional Charter, but it chose the innovation and diversity of approach of Cameron's.

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- ¹ My thanks to Rachel Bolton for her fantastic help in combing through considerable archival material in order to build a timeline of the drafting of the Ceylon Charter. I would also like to thank Evana Wright, Isabella Alexander and Genevieve Wilkinson for allowing me to join their writing mornings. Without their generosity this chapter (and collection) would never have been finished.
- ² Sir Richard Ottley to Goderich, 3 November 1832, GBPP XXVI.357 (332), 30; Goderich (Secretary of State for War and the Colonies) to Wilmot Horton (Governor, Ceylon) 23 March 1833, GBPP XXVI.357 (332), 3.
- ³ Sir Edward Barnes (Governor of Ceylon) to Murraray (formerly Secretary of State for War and the Colonies), 3 February 1831, TNA, CO416/16, fol 4 (Barnes would likely not have been aware that Murray had been replaced by Goderich some three months previously).
- ⁴ Sir Richard Ottley to Goderich, 3 November 1832, GBPP XXVI.357 (332), 30; Goderich (Secretary of State for War and the Colonies) to Wilmot Horton (Governor, Ceylon) 23 March 1833, GBPP XXVI.357 (332), 3;
- ⁵ For a full discussion of the development of Crown colony government, and why it was retained and in fact expanded after the end of war see Ward 1976, ch 4. The term 'Crown colony' was not in use until the late 1820s, although we now use the term for colonies that were given this mode of governance before that date (such as Sierra Leone or New South Wales). Murray suggests the term was first used in 1828 by Sir George Murray (Secretary of State for the Colonies): Murray 1965, 158.
- ⁶ Liverpool to Canning (Foreign Secretary), 9 January 1824, enclosed in Liverpool to Bathurst, 12 January 1824, in *The Bathurst Manuscripts*, 560.
- ⁷ HC Deb 25 July 1822 Vol 7 c 1783-1800.
- ⁸ Bigge and Colebrooke to Wilmot, 8 Jan 1823, TNA, CO48/100, fol 24.
- ⁹ Wilmot (Under Secretary of State for War and the Colonies), 25 July 1822, HC Dec, vol 7, c 1801.
- ¹⁰ Bathurst to Bigge and Colebrooke, 18 January 1823, in Copies of Instructions Originally given by the Right Honourable the Secretary Roberto for the Colonies, for the Guidance of the Commissioners sent to the *Cape of Good Hope*, to the *West Indies* and to *Sierra Leone*, to enquire into the situation in those Colonies, GBPP XXVI.353 (332) 1826, 3-5, 4.

- ¹¹ Twiss to Dwaris, 4 April 1832, TNA, CO168/12, p 30-31 and also 32. For letters patent appointing Riddell see draft appended to Murray to Blair, 28 March 1829, TNA, CO168/12, pp 34-37.
- ¹² Campbell Drummond Riddell to George Murry, 9 April 1830, TNA, CO54/121, fos. 66–67.
- ¹³ Sir Edward Barnes, ‘Proposed Sketch for an Additional Charter for Ceylon, sent in March 1821’, TNA, CO416/18 (unpaginated, column notes, first page). For the Charter see Letters Patent Establishing a Supreme Court of Judicature at Fort St George, 26 December 1800, in Shaw 1888, 85-116.
- ¹⁴ Sir Edward Barnes, ‘Proposed Sketch for an Additional Charter for Ceylon, sent in March 1821’, TNA, CO416/18 (unpaginated); Mr Wilmot-Horton’s Notes on the Charter of Justice Proposed by Sir Edward Barnes 1822, nd, TNA, CO416/16, fol. 293, 294. In addition, one would have needed in the specific context of Kandy to refer to the Proclamations of 1815 and 1818.
- ¹⁵ Biography, ‘The Queen’s Royal Surreys’:
https://www.queensroyalsurreys.org.uk/colonels_and_co/colonels/31st-foot/lt-gen-sir-edward-barnes.shtml (last accessed 19 October 2023).
- ¹⁶ Mr Wilmot-Horton’s Notes on the Charter of Justice Proposed by Sir Edward Barnes 1822, nd, TNA, CO416/16, fol. 301.
- ¹⁷ Stephen to Hay (Permanent Under-secretary at the Colonial Office), 18 November 1826, CO54/95, fol. 170.
- ¹⁸ Appointed 6 April 1819: *The Times*, 7 April 1891, 6.
- ¹⁹ The Records of the Honourable Society of the Lincoln’s Inn, vol II, Admissions from AD 1800 to AD 1893, Lincoln’s Inn, 1896, fol 205.
- ²⁰ Grenada was not a ‘new’ colony as such, having been ceded by the French in 1763 under the Treaty of Paris at the conclusion of the 7 years’ war.
- ²¹ Sir Richard Ottley, Evidence to the Commissioners, 2 January 1839, TNA, CO416/16, fol 374; Ottley to Cameron, 6 February 1830, TNA, CO416/16, fol 290.
- ²² Despatch No 9, 21 October 1828, referred to in Ottley and Marshall to Barnes, 19 April 1830, TNA, CO416/16, fol 171 and Barnes to Murray, 3 February 1831, TNA, CO416/16, fol 2.
- ²³ Ottley to Colebrooke, 8 February 1830, TNA, CO414/16, fol 291.
- ²⁴ Ottley and Marshall to Barnes, 19 April 1830, TNA, CO416/16, fol 171.
- ²⁵ Barnes to Murray, 3 February 1831, TNA, CO416/16, fol 4.
- ²⁶ Howick (Undersecretary of State for War and the Colonies) to Commissioners of Inquiry, 12 September 1831, TNA, CO416/16, fol 1.
- ²⁷ Ottley to Barnes (Lieutenant-Governor Ceylon), 28 February 1823, TNA, CO54/84, fol 114; *Cape Town Gazette and African Advertiser*, 21 May 1823, 1.
- ²⁸ MacMillan was given access to two boxes of materials from the Philip family. These were stored in the Witwatersrand University Library, part of which was subsequently destroyed by fire (my thanks to Roger B Beck for the above information). MacMillan states that a copy was sent to London (Macmillan 1927, 190) but his footnotes are terse (as was not uncommon in the era in which he wrote). However, where Philip sent reports or letters to the London Missionary Society Macmillan’s footnotes generally reflected this. The designation ‘London’, therefore, likely indicated another destination. The letter is not in the LMS

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- archive (which includes many extant letters from Philip in the relevant period) held by the School of Oriental and African Studies, London. Nor is there any trace of it in the Colonial Office files at TNA.
- 29 Stephen to Hay, 14 May 1827, TNA, CO54/139, fos. 30-47.
- 30 Notes and Abstracts of Law Officer's Opinions, TNA, CO323/91a, notes two sets of comments by the Law Officers, 18 July and 23 August 1827, but with no text appended.
- 31 Chart of Justice 1827, in Theale 1905, 274ff.
- 32 All three can be found printed in GBPP (1831-32) XXXII (275).
- 33 Hay to Cameron, 16 February 1832, TNA, CO168/12, p 77; Colebrook to Hay, 21 April 1832, TNA, CO54/121, fos 369-370.
- 34 Memo Goderich to Wilmot-Horton, 23 March 1833, TNA, CO54/145, fol 170.
- 35 Report of Charles H Cameron, Esq., one of His Majesty's Commissioners of Inquiry, upon the Judicial Establishments and Procedure in Ceylon, dated 31st January 1832, GBPP (1831-32) XXXII (274), 119-120 (Judicial Establishments).
- 36 Ottley to Cameron, 6 February 1830, TNA, CO416/16, fol 290.
- 37 Cameron, Judicial Establishments, GBPP (1831-32) XXXII (274), 141.
- 38 Moring and Perring to Anstruther (Deputy Secretary to the Government in Ceylon), 13 October 1832, TNA, CO54/118, fol 333; Crown Law Officers to Goderich, 23 January 1833, TNA, CO54/132, fol 161.
- 39 Cameron, Judicial Establishments, GBPP (1831-32) XXXII (274), 141.
- 40 The modifications were to do with giving some concurrent jurisdiction over criminal matters to the district courts and supreme court: Memo Goderich to Wilmot-Horton, 23 March 1833, TNA, CO54/145, fol 170.
- 41 Viscount Goderich to Sir Wm Houston (Governor of Gibraltar), 4 Nov. 1831, in The National Archives, Kew (TNA), CO 91/114, reproduced at Mitchell Library (Sydney) (ML), MLDOC 266 (unpaginated).
- 42 Cameron, Judicial Establishments, GBPP (1831-32) XXXII (274), 143-149.
- 43 Cameron, Judicial Establishments, GBPP (1831-32) XXXII (274), 144-149.
- 44 Goderich to Wilmot Horton, 23 March 1833, GBPP (1833) XXVI (332), 8.
- 45 Colebrook to Hay 10 May 1832, TNA, CO54/121, fol 404.
- 46 Horne and Campbell to Goderich, 23 Jan 1833, TNA, CO54/132, fol 161.
- 47 Henry Collingwood Selby, Queen's Advocate, Ceylon, wrote a detailed review of the problems bedevilling civil administration under the Charter in 1847: 21 June 1847, GBPP XXXIV (568) (1852), 118-132.
- 48 Stephen, Minute, 20 January 1842, TNA, CO54/191, cited in Samaraweera 1974, 275.