

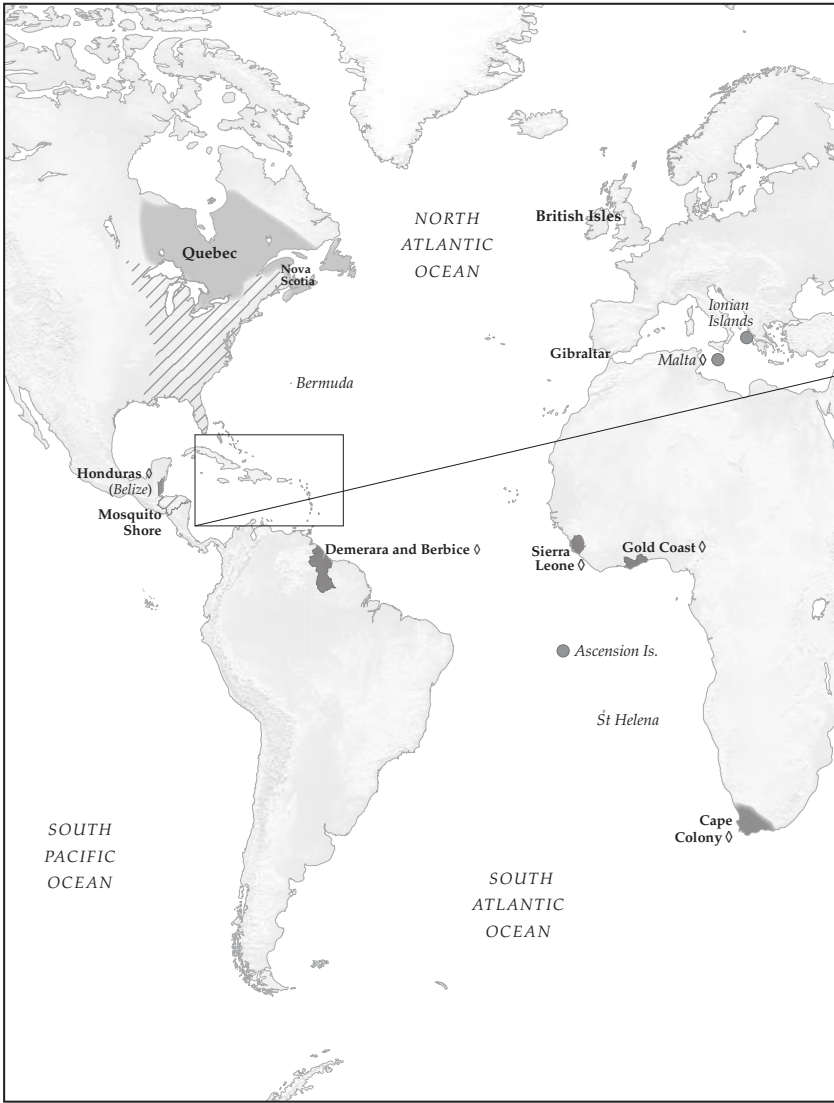
1 Introduction

In 1815, the British Empire emerged from a half-century of war a more diverse and extensive entity. It now included old, self-governing colonies in the Caribbean, extensive new territories in the Indian subcontinent and a cluster of formerly French, Dutch and Spanish colonies scattered around the globe. These territories had divergent geographies, stretching from tropical South America to the arid interior of New South Wales. Their populations differed enormously: colonial subjects in the post-Napoleonic Empire not only spoke many different languages, most of Britain's new subjects were People of Colour and unfree. These colonies also had vastly different laws and institutions. Old Caribbean colonies had outdated laws, truculent legislatures and quirky institutions, while recently conquered colonies were ruled directly by autocratic governors supported by foreign or quasi-military legal institutions. The new British Empire was fragmented, unruly and haunted by the spectre of revolution. How should these disparate places be governed? How could new and old subjects be bound by law and affect to the British Crown?

To answer these questions, the British government sent commissions of inquiry to bind empire together and chart its reform. In 1819, a commissioner was sent to investigate the state of government, law and agriculture in the convict colony of New South Wales. In 1821, commissioners were ordered to inquire into the management of Africans liberated from the slave trade in the Caribbean. In July of 1822, the undersecretary for the colonies, Robert Wilmot Horton MP, announced two expansive royal commissions.¹ The first was a Commission of Eastern Inquiry created to inquire into the state of government, law and finance in the Cape colony, Mauritius and Ceylon. On the same

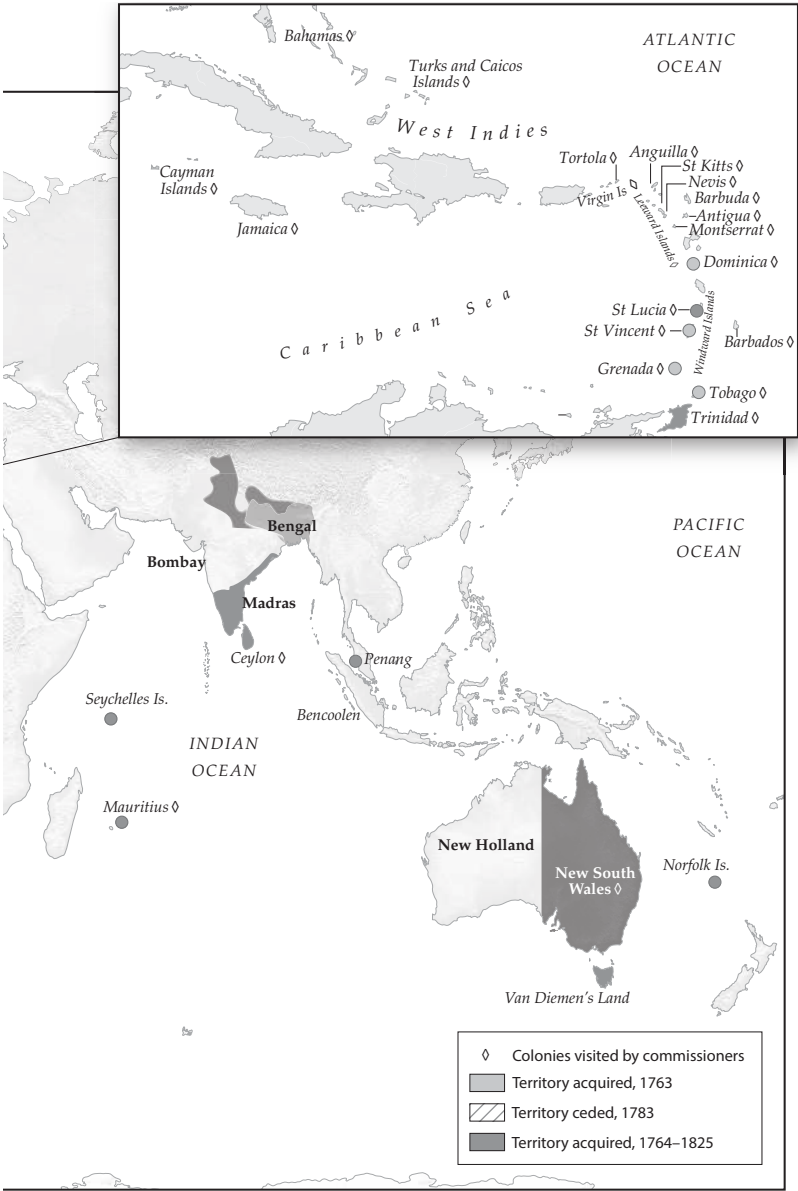
¹ Born Robert John Wilmot in 1784, he took the additional surname Horton in 1823 as a condition of his succession to his father-in-law's Derbyshire estates. Thereafter, he was generally referred to as Wilmot Horton. For the sake of clarity, we use this surname throughout. See S. P. Lamont, 'Robert Wilmot Horton and Liberal Toryism', unpublished PhD thesis, University of Nottingham (2015), p. 6.

2 Introduction



Map 1.1 The British Empire to 1825

Cambridge University Press & Assessment
978-1-009-47062-9 – Inquiring into Empire
Colonial Commissions and British Imperial Reform, 1819–1833
Lisa Ford , Kirsten McKenzie , Naomi Parkinson , David Andrew Roberts
Excerpt
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day, he announced a Commission of Legal Inquiry to investigate the administration of justice in the Leeward Islands – a project that soon grew to encompass every British settlement in the Caribbean. Over the next three years, commissions were dispatched to report on law on the island of Malta and on the state of British holdings in West Africa, including the free colony of Sierra Leone.

Together, the commissions produced an enormous archive, cataloguing empire on an unprecedented scale. They produced some two-dozen printed reports, more than 200 dedicated volumes of testimony and correspondence and as many volumes again of related materials (including letters about the commissions and complaints designed to influence their inquiries). Only a very few of these records have been published.² Their work spawned wide-ranging private and public debates, leaving traces in myriad archives. Naturally, the commissions' formal records are dominated by testimony from colonial officials who were asked to answer a set of overlapping questions about legal and bureaucratic practice. But commissioners were also deluged with unsolicited complaints from new and old British subjects. Elite litigants, heirs, creditors and malcontents outlined their woes in person and on paper. The commissions also gathered surprising and neglected testimonies from enslaved people, convicts, free People of Colour and indentured Africans 'rescued' from the slave trade. The commissioners' archives teem with competing voices – adumbrated, translated and distorted – but all vying for a say in empire's reform.

Inquiring into Empire is the first extended and holistic attempt to make sense of this project. To date, the commissioners' archives have mostly been tapped to tell parochial national histories. In Australia, the 'Bigge Inquiry' is understood as a turning point in the history of the nascent penal colony that ended the career of a much-admired governor, Lachlan Macquarie, and ushered in a new era of convict oppression and economic growth.³ South African historiography has cast the Commission of Eastern Inquiry as a decisive pivot towards 'Anglicisation' that broke the

² Some correspondence by and about the Bigge Inquiry into New South Wales and the Eastern Inquiry into the Cape have been published in the *Historical Records of Australia* (Sydney: Library Committee of the Commonwealth Parliament, 1914–), and in G. M. Theal (ed.), *Records of the Cape Colony* (London: Clowes, 1897–), respectively. Perhaps as a result, these inquiries both form foundational pillars in those historiographies. More recently, G. C. Mendis collated and published selected correspondence from the Eastern Inquiry into Ceylon: G. C. Mendis (ed.), *The Colebrooke-Cameron papers*, 2 vols. (Bombay: Oxford University Press, 1956–).

³ The classic account in Australian literature is J. Ritchie, *Punishment and Profit: The Reports of Commissioner John Bigge on the Colonies of New South Wales and Van Diemen's Land, 1822–1823; Their Origins, Nature and Significance* (Melbourne: Heinemann, 1970). See

influence of Dutch elites.⁴ The Eastern Inquiry into Ceylon has played a smaller role in its historiography, even though Sri Lankan historian G. C. Mendis described it long ago as ‘a dividing line in Ceylon history’.⁵ Only Anita Rupprecht has studied the Commission into Liberated Africans in the Caribbean in detail,⁶ while the dreary but influential reports of the Caribbean Legal Inquiry hardly rated a mention before their preliminary examination by Lauren Benton and Lisa Ford.⁷ These commissions have seldom been read together or placed in pan-imperial context. Kirsten McKenzie highlighted the pivotal role played by Bigge’s commissions in

also R. Evans, ‘19 June 1822: Creating “an object of real terror”: The tabling of the first Bigge report’, in M. Crotty and D. A. Roberts (eds.), *Turning Points in Australian History* (Sydney: University of New South Wales Press, 2009), pp. 48–61; B. Dyster, ‘A Series of Reversals: Male Convicts in New South Wales, 1821–1831’, *The Push from the Bush*, 25 (1987), pp. 18–36.

⁴ See J. Sturgis, ‘Anglicisation at the Cape of Good Hope in the early nineteenth century’, *The Journal of Imperial and Commonwealth History*, 11.1 (1982), pp. 5–32. On the ‘faceless’ commissioners in South African historiography, see J. B. Peires, ‘The British and the Cape’, in R. Elphick and H. Giliomee (eds.), *The Shaping of South African Society*, 2nd ed. (Cape Town: Maskew Miller Longman, 1989), p. 495.

⁵ See G. C. Mendis, *Ceylon, Today and Yesterday: Main Currents of Ceylon History* (Colombo: Associated Newspapers of Ceylon, 1957), p. 70; C. R. de Silva, *Ceylon under British Occupation, 1795–1833* (Colombo: The Colombo Apothecaries’ Co., 1962). On David Scott’s use of the inquiry, see D. Scott, ‘Colonial Governmentality’, *Social Text*, 43 (1995), pp. 191–220. More recent scholarship includes, S. Sivasundaram, *Islanded: Britain, Sri Lanka, and the Bounds of an Indian Ocean Colony* (Chicago: University of Chicago Press, 2013), particularly ch. 8, ‘Publics’; N. Wickramasinghe, *Sri Lanka in the Modern Age: A History* (Oxford: Oxford University Press, 2015). On Mauritius, see A. J. Barker, *Slavery and Antislavery in Mauritius: The Conflict between Economic Expansion and Humanitarian Reform under British Rule* (New York: St Martin’s Press, 1996), or R. B. Allen’s work on Mauritius’ free population of colour including, ‘Economic Marginality and the Rise of the Free Population of Colour in Mauritius, 1767–1830’, *Slavery and Abolition*, 10.2 (1989), pp. 126–50.

⁶ Anita Rupprecht is currently working on a book on this subject. A selection of her work to date includes: A. Rupprecht, ‘“When he gets among his countrymen they tell him that he is free”: Slave trade abolition, indentured Africans and a royal commission’, *Slavery and Abolition*, 33.3 (2012) pp. 435–55; A. Rupprecht, ‘From slavery to indenture: Scripts for slavery’s ending’, in C. Hall, N. Draper and K. McClelland (eds.), *Emancipation and the Remaking of the British Imperial World* (Manchester: Manchester University Press, 2014), pp. 77–97; A. Rupprecht, ‘“He says that if he is not taught a trade, he will run away”: Recaptured Africans, desertion, and mobility in the British Caribbean, 1808–1828’, in M. Rediker, T. Chakraborty and M. van Rossum (eds.), *A Global History of Runaways: Workers, Mobility, and Capitalism, 1600–1850* (Oakland, University of California Press, 2019), pp. 178–98. Also see Jeppe Mulich on the mobility of Tortola’s Liberated Africans: J. Mulich, *In a Sea of Empires: Networks and Crossings in the Revolutionary Caribbean* (Cambridge: Cambridge University Press, 2020), pp. 134–56.

⁷ See ch. 3 of L. Benton and L. Ford, *Rage for Order: The British Empire and the Origins of International Law, 1800–1850* (Cambridge, MA: Harvard University Press, 2016), which situates that investigation within the broader imperial commissions moment. Legal Inquiry also figures in D. J. Murray, *The West Indies and the Development of Colonial Government, 1801–1834* (Oxford: Oxford University Press, 1965).

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the political maelstrom of 1820s New South Wales and the Cape. Zoë Laidlaw and Clare Anderson discussed the intersections between Eastern Inquiry and the humanitarian politics of unfree labour and prison reform, respectively. Meanwhile, Laidlaw's groundbreaking *Colonial Connections* reclaimed the Eastern Inquiry as a key strategy in bolstering metropolitan control over colonial government after 1815 – a theme expanded across the British World by Benton and Ford in *Rage for Order*.⁸ This relative neglect is understandable given the scale and complexity of the archive: it is big enough to keep scholars busy for generations.

Making sense of the project of inquiry is difficult because it was a messy and inconsistent business. Commissioners themselves, as we shall see, were frequently hounded by expanding briefs and fugue-like instructions from their masters in Whitehall. They fell into acrimony with their superiors, colonial subjects and each other. Their health was undermined by the pressure and conditions of their research. Legal Commissioner Henry Maddock sacrificed his life on the altar of enquiry (he died with a fever in St Lucia in 1824), while others suffered injury and illness after gruelling travails on the edges of empire.⁹

We confine ourselves to one, albeit large, point of investigation – what do the commissions reveal about imperial reform in the busy years between the Battle of Waterloo (1815) and the Great Reform Act (1832)? The manifest tension between reaction and reform in this period has long occupied scholars of British domestic and imperial history. We start our inquiry with Christopher Bayly's *Imperial Meridian*. Writing in the late 1980s against a Whiggish assumption that post-Napoleonic reform was simply 'a plateau on the ascent to liberalism', Bayly argued instead that this was a distinctively conservative moment, marked by militarism, the re-assertion of social hierarchies and the establishment of 'overseas despotisms' mirroring neo-absolutism in contemporary Europe.¹⁰ Nevertheless, as Bayly foreshadowed and Laidlaw

⁸ Z. Laidlaw, *Colonial Connections, 1815–45: Patronage, the Information Revolution and Colonial Government* (Manchester: Manchester University Press, 2005); Benton and Ford, *Rage for Order*, pp. 57–59; Z. Laidlaw, 'Investigating empire: Humanitarians, reform and the Commission of Eastern Inquiry', *The Journal of Imperial and Commonwealth History*, 40.5 (2012), pp. 749–68; C. Anderson, 'Convicts, carcerality and Cape Colony connections in the 19th century', *Journal of Southern African Studies*, 42.3 (2016), pp. 429–42; K. McKenzie, *Imperial Underworld: An Escaped Convict and the Transformation of the British Colonial Order* (Cambridge: Cambridge University Press, 2016).

⁹ Jabez Henry to Wilmot Horton, 30 August 1824, The National Archives, Kew [hereafter TNA], CO 318/57.

¹⁰ C. A. Bayly, *Imperial Meridian: The British Empire and the World 1780–1830* (London: Longman, 1989), pp. 8–9, 11, 162.

would later elaborate, in the aftermath of the Napoleonic Wars, the conservative coalition that ruled Britain was also increasingly committed to a peculiar variant of reform.¹¹ This was so in part because Prime Minister Robert Jenkinson, Earl of Liverpool, held onto power by a thread by the mid-1820s. The Prince Regent, later George IV, was a fickle patron,¹² and opposition MPs marshalled imperial scandals to chip away at Liverpool's fragile hold on the House. In this period, personal affinity generally trumped 'party' in the later nineteenth-century sense of that word. So, to retain power, the Liverpool regime had to balance the demands of competing interests, some of the most important of them mired in slavery.¹³ However, the project of inquiry also responded to the growing clout of antislavery advocates and, indeed, many of the commissions were called to fend off parliamentary resolutions demanding the reform of unfree labour. The Liverpool ministry also had to reckon with the economic fallout of decades of war: Whiggish and Radical MPs, in particular, demanded that empire be made cheaper, that trade and commerce be unencumbered and that imperial rule, to some limited degree, be made less arbitrary. These contests unfolded in the shadow of revolution. Since the outbreak of revolutionary hostilities in North America in 1775, Britain had been fighting insurgents overseas, and, increasingly in the post-war downturn, at home. But Liverpool's reforms were not just reactionary and reactive. As Benton and Ford showed, Britain's conservative and counter-revolutionary government was also committed to what it viewed as 'rational' legal reform at home and abroad.¹⁴

Colonial commissions of inquiry, we argue here, offer a way to unlock the cacophonous politics and ostensibly inconsistent policies of the Liverpool government. Commissions of inquiry were a very old technology revived at a very particular moment, at home and in empire, for a

¹¹ Laidlaw, *Colonial Connections*, p. 40. Bayly and Laidlaw were not the first to notice reform impulses in the post-Napoleonic empire: in the 1960s and '70s, excellent work by D. M. Young, D. J. Murray, J. Millette and J. M. Ward also charted early shifts in imperial governance: D. M. Young, *The Colonial Office in the Early Nineteenth Century* (London: Longmans, 1961); J. Millette, *The Genesis of Crown Colony Government: Trinidad, 1783–1810* (Curepe, Trinidad: Moko Enterprises, 1970); Murray, *The West Indies and the Development of Colonial Government*; and J. M. Ward, *Colonial Self-Government: The British Experience, 1759–1856* (London: Macmillan, 1976).

¹² E. A. Smith, *George IV* (New Haven, CT: Yale University Press, 1999), p. 284. Only after 1834 did ministries definitively take power by commanding a majority in Parliament. S. M. Lee, *George Canning and Liberal Toryism, 1801–1827* (Woodbridge: Boydell Press, 2008), p. 174.

¹³ M. Taylor, *The Interest: How the British Establishment Resisted the Abolition of Slavery* (London: Bodley Head, 2020).

¹⁴ Benton and Ford, *Rage for Order*.

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very particular purpose. This project was not always successful at managing the competing metropolitan goals thrown at it by an unstable Parliament. In many respects, inquiry was stymied (though in others transformed) by the increasing parsimony of Parliament and Exchequer and the 1830 election of the Whigs. Perhaps most importantly, it was constantly buffeted by the politics of colonial encounter. Even so, we argue that the process of the inquiries' calling, conduct, findings and consequences exemplify (and also show the limitations of) 'constructive conservatism' – a term we adapt from Bayly to describe the grab bag of counter-revolutionary impulses, reform agendas and political pragmatism that shaped imperial policy in the 1820s with decidedly mixed results.¹⁵

Inquiring into Empire follows two main routes into this larger question. Firstly, we explain why we think commissions were the archetypal vehicle of conservative reform. This was so because commissions were creatures of the Crown. By calling royal commissions, the ministry wrested responsibility for colonial information-gathering from parliamentary factions. Commissions also exemplified conservative reform by elevating 'history and experience' over 'theoretical or abstract reasoning'.¹⁶ The king's emissaries were deployed to the farthest corners of empire to gather impartial firsthand evidence about law and government in the colonies, allowing the Colonial Office to craft rational, incremental and tailored reform.

This approach served two functions. The first was political. The Liverpool regime used commissions to manage the parliamentary fallout of colonial scandal. At least since the attempted impeachment of Bengal's first Governor-General, Warren Hastings, from 1786, empire seemed to lurch from one lurid scandal to another, communicated home by disaffected colonists, often casting colonial administrations in the worst possible light.¹⁷ As Benton and Ford pointed out, commissions were 'designed ... to cut through the dysfunction of multistranded

¹⁵ Bayly, *Imperial Meridian*, p. 11.

¹⁶ A. Gambles, *Protection and Politics: Conservative Economic Discourse, 1815–1852* (Woodbridge: Royal Historical Society, 1999), pp. 1, 18. For Gambles' discussion of the relationship between Bayly's 'constructive conservatism' and 'constructive imperialism' see ch. 6, especially pp. 150, 164.

¹⁷ One fulsome study, for example, W. C. Wentworth, *A Statistical, Historical, and Political Description of the Colony of New South Wales, and Its Dependent Settlements in Van Diemen's Land* (London: G. & W.B. Whittaker, 1819) was published on the eve of Bigge's departure in 1819 and would go through several (quite distinct) editions. See also J. Stephen Sr, *The Crisis of the Sugar Colonies, or, An Enquiry into the Objects and Probable Effects of the French Expedition to the West Indies* (London: J. Hatchard, 1802).

imperial communication networks'.¹⁸ In the 1820s, the presence of supposedly impartial commissioners in the colonies was invoked at the first sign of colonial trouble – arm's-length investigation by men on the ground averted parliamentary committees, motions of censure, private members bills and threats to bring wayward governors to justice.¹⁹

But the ministry's drive to keep empire out of Parliament was also ideological. Since the American Revolution, successive ministries had resolved (more or less) that empire was best ruled directly by the Crown. In the 1820s, Liverpool and his Secretary for War and the Colonies, Earl Bathurst, worked tirelessly to defend individual governors and the system of crown rule from opponents in Parliament. Commissions furthered this goal directly by defending governors on instruction, but they also pointed out problems with executive discretion granted by foreign law and colonial legislation (as in the Cape and Jamaica), gathered evidence about the excesses of governors (as in New South Wales) and addressed popular clamour for self-rule (as in Trinidad). As early as 1825, in dialogue with inquiry, the Colonial Office began imposing legislative or advisory councils in colonies ruled by governors (crown colonies) across the empire to improve and defend crown rule.²⁰ This was not a step on the way to self-government or a prequel to Whiggish liberalisation. It was explicitly articulated as a move to save counter-revolutionary crown government from attack by disgruntled colonists and opposition forces in Parliament.²¹

Another pillar of conservative reform focused on making empire work better by reforming and simplifying colonial law, not along strict Benthamite lines but in ways that reflected the needs of colonial populations and economies. Commissions helped here by surveying colonial legislation, cataloguing the dysfunctions of colonial courts and seeking advice from judges and law officers about how best to fix the system. This project had articulated into a reform program of sorts by the end of the 1820s, centred on sharing new and improved English law (criminal law only in foreign colonies) and, most importantly, creating modern, well-staffed and efficient courts that could keep an eye on governors, masters

¹⁸ Benton and Ford, *Rage for Order*, p. 60.

¹⁹ See K. McKenzie and L. Ford, 'A dance of crown and parliament: Empire and reform in the age of Liverpool', *English Historical Review*, 137.589 (2022), pp. 1606–32.

²⁰ Its first iteration in this period was New South Wales, in 1823–24. However, correspondence from the mid-1820s suggests that the model was derived from 1770s legislation for Bengal and Quebec.

²¹ See Benton and Ford, *Rage for Order*, pp. 1–84. For a recent discussion of constitutional efforts to bolster crown power after 1779, see L. Ford, *The King's Peace: Law and Order in the British Empire* (Cambridge, MA: Harvard University Press, 2021).

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and legislatures; make litigants (particularly heirs and creditors) happy; and bring enslaved people under the protection of the law.²² Finally, reform sought to make empire cheaper, by reducing colonial establishments and, albeit inconsistently, removing arbitrary impediments to economic growth.²³ All of these facets of conservative reform need to be considered on their own terms and within their own logic.

Meanwhile, the dual projects of conservative reform and damage control merged into the most exciting and important roles of the commissions – to engage directly with colonial publics and to massage evidence into manageable and actionable truths. Sometimes under instruction and at other times on their own initiative, commissioners embroiled themselves in colonial politics. Most of their time was spent talking to officeholders and angry white men, but as noted, in some cases they engaged deeply with broader colonial publics, including People of Colour, unfree labourers and even the enslaved. As a result, the project of inquiry launched empire into a uniquely expansive polylogue among the Colonial Office, individual commissioners and empire's disparate peoples. This encounter profoundly shaped conservative reform. In several chapters, we place particular emphasis on the surprising colonial encounters that shaped the Liverpool regime's tortured and inconsistent approach to the great problems of the day: abolishing the slave trade and ameliorating slavery. Commissions of inquiry served sometimes as emissaries of slavery's amelioration, but at other times they exposed the project's hard edges and also the corrosive ramifications of the Liverpool government's deep (and at times disastrous) reliance on the cooperation of self-interested elites. In every case study that follows, we spend time accounting for the commissioners' days, counting their visitors, and weighing their evidence in order to understand better who sought to participate in the remaking of empire. We argue in the process that a central, but hidden, function of the commissions was to build an empire of affect, forging new bonds between colonial subjects and the Crown – a project whose importance is most evident when, as in Mauritius, it failed.

The bright promise of colonial inquiry was never fully realised. Liverpool's stroke in 1827 was followed by half a decade of political turmoil, and some of the most important colonial reforms proposed by commissioners collapsed after the epochal but expensive decision to end slavery in 1833. Yet ideas about law and empire consolidated in this

²² Benton and Ford, *Rage for Order*, pp. 56–84.

²³ Gambles has argued that attacking protection emerged as a central ideological commitment in the liberal Tory era. Gambles, *Protection and Politics*, pp. 56–85.