

# OUTLINE

OF A

## SYSTEM OF LEGISLATION,

FOR SECURING PROTECTION TO THE

ABORIGINAL INHABITANTS OF ALL COUNTRIES

COLONIZED BY GREAT BRITAIN;

EXTENDING TO THEM POLITICAL AND SOCIAL RIGHTS, AMELIORATING THEIR  
CONDITION, AND PROMOTING THEIR CIVILIZATION,

DRAWN UP AT THE REQUEST OF

THE COMMITTEE

OF

"THE ABORIGINES PROTECTION SOCIETY,"

FOR THE PURPOSE OF BEING LAID BEFORE THE GOVERNMENT.

**BY STANDISH MOTTE, ESQ.,**

(OF THE MIDDLE TEMPLE, BARRISTER-AT-LAW)

A MEMBER OF THE COMMITTEE.

"What is the race of mankind but one family widely scattered upon the face of the earth?"  
"All men by nature are brothers. "

FENELON.

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TO  
THE COLONIAL MINISTER, AND THE LEGISLATURE OF  
GREAT BRITAIN,

These Pages are Addressed,

WITH THE VIEW OF PROMOTING  
THE ADOPTION OF SOME LEGISLATIVE MEASURE,

FOR THE PROTECTION OF

THOSE NUMEROUS RACES OF HUMAN BEINGS,

WHOSE TERRITORIES ARE DAILY AUGMENTING OUR VAST POSSESSIONS,

AND WHOM WE ARE BOUND,

BY EVERY PRINCIPLE OF HUMANITY,

TO SUCCOUR AND PROTECT.

In making the following sketch, at the request of the Committee of the Aborigines Protection Society, I have availed myself of many valuable suggestions from several of its active members, as well as of extracts from the reports of Parliamentary Committees, and of despatches from the Colonial Officers of the Crown.

STANDISH MOTTE

PRINTED FOR THE SOCIETY,  
BY J. HADDON, CASTLE STREET, FINSBURY.

*Lincoln's Inn Fields, July 26, 1840.*

# AT A MEETING

OF THE

## COMMITTEE

OF

### THE ABORIGINES' PROTECTION SOCIETY,

*Held August the 12th, 1840,*

IT WAS RESOLVED, —

That the thanks of this Society are especially due to Mr. Standish Motte, for his valuable "Outline of a System of Legislation, for securing protection to the Aborigines of British Colonies;" and that the Outline be printed by this Society, for circulation among its supporters, as well as the members of the legislature.

FREDERICK MAITLAND INNES,

*Secretary,*

*Office of the Aborigines' Protection Society,  
17, Beaufort Buildings, Strand.*

## I. NECESSITY FOR LEGISLATION.

*"It will scarcely be denied, that as an enlightened and Christian people, we are at least bound to do to the inhabitants of other lands, whether enlightened or not, as we should in similar circumstances desire to be done by; but beyond the obligations of common honesty, we are bound by two considerations: first that of the ability which we possess to confer upon them the most important benefits; and secondly, that of their inability to resist any encroachment, however unjust, however mischievous, which we may be disposed to make. The disparity of the parties, the strength of the one, and the incapacity of the other to enforce the observance of their rights, constitutes a new and irresistible appeal to our compassionate protection."*

*"The duty of introducing into our relations with uncivilized nations the righteous and profitable laws of justice is incontrovertible, and it has been repeatedly acknowledged in the abstract, but has we fear been rarely brought into practice; for as a nation we have not hesitated to invade many of the rights which they hold most dear." —Report of a Select Committee of the House of Commons on the Aborigines of British Settlements, 1837.*

THE reckless and lawless conduct which has hitherto characterized colonization, in reference to the Aboriginal Inhabitants of the Countries Colonized, —the atrocities and cruelties perpetrated, —the injustice, the suffering, and the loss of life which have resulted to the aborigines, —the deep injury inflicted upon the political and commercial interests of Great Britain thereby, —and the stain upon our national honour, are too well known to require any lengthened detail. The printed reports and papers of the Parliamentary Committees of Inquiry, as well as those of the Aborigines Protection Society, have recorded the *facts* in evidence; the *truth* of which unfortunately is too faithfully supported and confirmed, by the *events* which are daily occurring in our colonial possessions.

That these crying evils, have mainly arisen from the absence of an efficient system of legislation, must be equally manifest. From the want of a proper and wholesome restraint, by which the colonists should have been compelled to respect the rights of the native inhabitants, and to conciliate their goodwill: —cruelty, tyranny, and oppression have been the result, leading to the worst species of despotism, alike degrading to the oppressor and the oppressed: —while these in their turn have led to a continuance of barbarism, savage ferocity, and a deep and dark revenge, rendered more baneful by the partial adoption of civilized weapons and customs, and ending often in the destruction of the lives and property of innocent and worthy persons, who have thus become unwittingly the victims offered up to the shrine of vengeance, for the wrongs inflicted by others upon the aboriginal inhabitants.

The rapidly extending political and commercial relations of Britain (comprehending under the imperial rule not less than one-sixth of the inhabitants of the globe), — the pouring forth of a wide stream of emigration from her shores to the uttermost parts of the earth, — the increased facility of international communication by steam (favoured as this country is by the development of science and its application to mechanical power, and destined as it would seem to become the pioneer of colonization, and to usher in a new era of intelligence and civilization to portions of the globe hitherto comparatively unknown), — render it the paramount duty of the people and government truly, justly, and humanely to fulfil the great trust in them reposed; to be careful that in grasping

the commerce of the earth we do not defraud; in acquiring possession of territory we do not despoil; in planting new colonies, we do not demoralize, ruin, and exterminate those who by birthright are nature's lords of the soil they inhabit; but so to combine and guide intelligence, enterprise, and capital, as to direct them to their legitimate ends; political and commercial reciprocity, and the diffusion of religion, knowledge, and civilization, among the heathen nations of the earth.

Hard indeed has been the lot of the poor untutored aboriginal inhabitant: —suddenly invaded by a race of men whose very name and existence, in many cases, were previously unknown, he has been hunted as a wild beast, driven from his father land, and obliged to seek among a warlike and perhaps hostile tribe that home which the civilized usurper denies him; until he finds a refuge in death by the hand of his enemies, or in misery pines away his existence. Is he permitted to remain near the white man—the picture is still more melancholy; he is treated as a creature of inferior nature, unable to cope with civilized habits: —without property, no respect is paid to him; without knowledge, he becomes the dupe of his civilized neighbour; he is fostered only to be defrauded of his land, his labour, or his liberty. Is he wronged?—he has no redress; without experience in our laws and customs, he is expected at once to conform, or to suffer punishment; no allowance is made for *his laws, his customs, or his prejudices*; and lastly, without knowledge, education, moral restraint, or self-control, he is subjected to every temptation which cupidity can invent, or the vices of artificial society can propagate. Can it be wondered at that such a being becomes con-

taminated — that he becomes physically diseased, morally debased, and losing the simple and noble attributes of his native character, forgets the virtues of his race, and clothes himself with the vices of civilized society?

What crimes or atrocities does history chronicle, more horrifying than the details of the cruelties practised upon the untutored native? He is first deprived of his land, next of his liberty, —his body is poisoned with disease, his blood is maddened with liquid fire, his passions are excited by revenge and despair; and in this state he is provided with the direst and most deadly weapons of destruction. Can the sequel be wondered at? His Christian brethren who have professed to civilize him stand by with heartless complacency, beholding the gradual extermination of his race, and the passing of the land of his fathers into their possession. Such is the process now causing the gradual depopulation and extinction of the native inhabitants of America and Africa, of New Holland and the islands of the Pacific. Is this Christianity—is this civilization? Forbid it, justice, truth, humanity! forbid it, selfishness! Yes, on selfish, on sordid, on mere commercial grounds (if such motives can be necessary for just legislation), it might be demonstrated that the acquirement of wealth and power, would in the end be greater, and far more permanent, not only to the individual members of a colony, but to the country colonizing: —by affording political protection to the native inhabitants, securing to them justice in their mutual relations, and dealing out to them with the hand of charity and Christian forbearance, leniency to their faults, allowance for their prejudices, and liberality for their good deeds.

To encourage and develop, not to damp or destroy their native ardour and energy; to direct, and not to weaken their physical character; to enlighten their minds by reason, and not to darken their understanding by deception or mystification; to help, and not to oppress, should be our object; —so as to cultivate and promote that mutual dependence and reciprocal good-will, which should make them view us as brothers and patrons, and not as intruders or hard task-masters; —and which by arousing and enlisting their sympathies, would infallibly lead them to be moral, intelligent, peaceful, and happy, —attached friends, and faithful allies.

If our international communication is to benefit us in a commercial point of view, it must be reciprocal; if possession of territory, or an extension of sovereign power be our object, it must be based upon natural justice; —which is so comprehensive in its nature, that it embraces in its scope alike the rights of an individual or a nation, the title to possession of an acre or a continent. If planting new colonies, extending the political and commercial relations of our country, opening new fields for British capital and enterprise, and creating a vent and employment for that industry and intelligence which is stagnant at home, are desirable; —we must be careful that the basis upon which we form those colonies is just, that they may flourish; and that the relations with the aborigines are reciprocal, that they may be lasting. If to these objects, we add the ennobling desire of spreading civilization by means of the diffusion of intelligence—of the useful arts and sciences—of religion, virtue, and morality—of raising the character of

the aborigines in the scale of humanity, and teaching them to become "as one of us;"—we must be simple and true in our communications and dealings with them, or they will rightly mistrust our sincerity; we must be candid and open, or we shall foster suspicion;—and we must be liberal, or we shall make them selfish;—we must improve their physical habits, by creating physical wants, that we may thereby lay a foundation for moral culture, and for politically and socially ameliorating their condition. While practical utility should be a leading object in view, it should not be the only end, —to teach them to obey our laws, we must convince them of their reasonableness; to induce them to conform to our customs, we must gradually remove their prejudices, and by persuasion rather than by force, bring about such a change, as to make them appreciate the benefits of our religion, the wisdom of our laws and institutions, the utility of our sciences, and the advantage of our manners and customs. Lastly, if we would prevent cruelty—if we would abolish sanguinary vengeance, and feuds between the colonists and the aborigines, or among themselves, of whatever race they may consist, whether of Africa or America, of New Holland or the islands of the Pacific, —peace should be our motto, —the olive branch our weapon, —the sheaf of wheat our offering, —and the Bible the code from which to frame our laws.

Experience tells us, that the most ferocious animals may be charmed and tamed by the genius of man, without force or violence. If this can be effected with mere brute instinct, what may we not expect to do with men by the effect of reason? If brutes, with

mere instinct, can be brought to love man, and obey him, how much more shall untutored mind be influenced by superior intelligence. It is a universal law, that intelligence, which is the offspring of truth, must prevail; how soon, —how far it shall prevail over those extensive regions of the earth, where civilization and religion have yet to make their way; —to the gradual extinction of savage barbarism, cruelty, oppression, famine, and bloodshed; —and by "turning the sword into the ploughshare, and the spear into the pruning-hook," tend to the gradual spread of intelligence, virtue, freedom, peace, goodwill, and civilization, among the new worlds called into existence by European enterprise and philanthropy—depends much upon the course now taken by the Government of this great nation. The following is submitted as the means for promoting so desirable an end.

## 2. APPOINTMENT OF A COMMISSION OF INQUIRY.

To devise the best means of legislating with reference to the aborigines of all countries colonized by Great Britain, it will be necessary to lay down certain general principles, from which laws may be made to emanate applicable to each. To bring those laws into action a modification in some cases may be necessary, as the details will involve an inquiry into, and consideration of, the moral, physical, and political condition of each nation or class of aborigines, the locality and nature of the soil they inhabit, its climate, productions, and capabilities; in fact, all the circumstances making a physiological, or political distinction, be-

tween the various aboriginal races of man now existing, and a geographical and political difference between the countries they inhabit.

For this purpose, and in order to obtain the data for securing a just and equitable system of legislation, it is submitted—

That power shall be forthwith delegated by the Crown to certain competent persons, to inquire into, and report generally, upon the present state and condition of the aborigines of all countries colonized by Great Britain, as well as of those countries with which we have or are likely to have, commercial or political relations.

That every facility shall be given by the Colonial Office, and the various colonial officers abroad, by furnishing to the Commissioners such statistical and other data and information as may in any way tend to promote the object.

That the Commissioners shall have power to examine such persons as they may consider necessary, and to call for any political or commercial treaties, legal proceedings, books and papers, and official and other documents, they may deem likely to throw light upon the subject of inquiry, or which may tend to elucidate the present condition of the aborigines of our colonial possessions, or their relations with the colonists.

That power shall also be given to investigate the rights and privileges of the aborigines, acknowledged by any treaties or arrangement with the British government or its agents, the nature of the title and

claims of the aborigines to land, the mode of alienating or selling the same, and the quantity of land sold, with the value paid.

That, as soon as possible, the Commissioners shall collect and properly classify all the facts in reference to the physical and political character of each race, people, caste, or tribe, as well as of each country, into as brief a space as is consistent with the object of the inquiry; and that the results of each particular inquiry shall be reported specially.

That the Commissioners shall also report, as far as they are able, the proximate or apparent cause for the difference in the character, habits, and customs of the people in various colonies; the soil, climate, &c. as well as their views in relation to each people, and the best means of legislating in reference to them; when and how far they would recommend the adoption of similar laws and institutions, and when not, the reason; as far as possible tracing cause and effect, and adducing facts thereon in support of legislation.

That as soon as they shall have so classified all the facts, they shall proceed to draw up a general system of legislation, together with a subdivision of particular laws applicable to each people or country requiring special laws; the reasons for the same being given in the appendix, founded upon the facts in evidence collated.

### 3. GENERAL PRINCIPLES OF LEGISLATION.

That such system of legislation shall be based upon

the declaration of the indefeasible rights of every people, (not under allegiance to any other power, ) to the natural rights of man, comprehending,

1. Their rights as an independent nation. That no country or people has a right by force or fraud to assume the sovereignty over any other nation.
2. That such sovereignty can only be justly obtained by fair treaty, and with their consent.
3. That every individual of a nation whether independent or owing allegiance to any other power has a right to personal liberty, and protection of property and life.

That such system shall embrace—

#### I. COUNTRIES ACKNOWLEDGING OUR SOVEREIGN AUTHORITY.

1. All countries already colonized by us.
2. All countries which we may colonize hereafter.

#### II. COUNTRIES NOT UNDER THE SOVEREIGN POWER OF GREAT BRITAIN.

1. All countries where we have territorial rights, but where the natives still preserve their independent sovereignty as a nation.
2. All countries where we have no territorial rights, but with which we have any commercial or political connexion, by treaty or otherwise.

#### 4. OUTLINE OF CODE PROPOSED.

##### *Rights of Property.*

That in future it be a fundamental principle in colonization, that no settlement shall be made on any land possessed or claimed by its aboriginal inhabitants, without their consent, formally obtained by treaty, or otherwise substantially acknowledged by them.

No settlement to be made or land acquired without consent of its aboriginal inhabitants.

That no treaty or agreement with any aboriginal inhabitants of our colonies, on the part of the British Government, or by British subjects, shall be valid, unless it secures an adequate reserve of territory for the maintenance and occupation of the aborigines and their posterity.

No treaty or agreement for purchasing territory without ample reserve for aborigines.

That a survey and report be forthwith made of all sales of land by the aborigines, to British subjects, in countries under the sovereignty of Great Britain, within the period of five years past, together with the amount and nature of the consideration paid for the same.

Survey and report of all land sales made within five years.

That when any fraud, force, or deception has been used to obtain the same, such sales shall be declared altogether invalid.

Fraud, force, or deception, to invalidate sales.

That in future a registry shall be kept of all sales of land by the aborigines; that such sale shall only be made in the presence of the official agent of the Aborigines Board of Protection, and shall be fully explained, and the nature and amount of the consideration set forth, together with the portion reserved for the aborigines.

Registry of land sales.

That any neglect or infringement of these regulations shall subject the land so purchased to be forfeited to the crown, for the use of the aborigines, or to heavy penalties, payable to the aborigines fund.

Forfeiture or penalties for non-conforming.



Territory held by commissioners in trust for aborigines.

That the territory so reserved for the aborigines shall be vested in and subject to the control of the commissioners, in trust for the aborigines.

Aborigines to have allotments.

That the aborigines shall be located upon the reserved lands upon the allotment system, with the emulative principle of a further grant of land for improvements; that in making the allotments of land to the natives, an adequate portion shall be appropriated to each family, but regard shall be had to the previous rank and possessions of the parties.

Allotments inalienable.

That such allotments shall be inalienable by the aborigines, excepting in exchange for other land with the consent of the agent, or by will or descent; and that in case of intestacy, or failure of issue or heirs, the same shall revert to the commissioners for the benefit of the aborigines' fund.

In transfers to and from the commissioners, stamp duty dispensed with.

That in all such transfers of land between the commissioners and the aborigines, no stamp duty be charged.

Reserves to be divided into hundreds, &c.

That where the lands reserved for the Aborigines shall be extensively continuous, they shall be divided and subdivided into counties, hundreds, and townships, in conjunction with a corresponding organization of its inhabitants.

Plan and owners name to be registered.

That the whole of such lands shall be registered with a plan of the same, together with the owner and occupier's name, so that the location of each person may be known, and available for service or protection.

Civil power to be vested in heads of nations or families.

THAT wherever the Aborigines shall be settled in large numbers, or in tribes or families together, the local administration of justice, for all minor offences committed among themselves, shall be vested in the chiefs or heads of families, who shall act as magistrates, with power of empannelling a jury or court of

not less than seven natives, of which the verdict of a majority shall be in all cases binding. That for the protection of life, of property, and the preservation of the peace, such magistrates shall have the advice and instructions of the law officers of the colony, and be assisted in the execution of their duty by the native constabulary force.

#### *Constabulary Force.*

That with the view of protecting the aborigines from the aggressions of their own body, or from injury from the colonists, as well as of repressing offences against the colonists, and preserving peace, a certain number of the aborigines be trained as a constabulary force, and organized and maintained under the authority of the colonial governor.

Natives to be trained as a constabulary force.

That in all cases of death, or of injury to the person or property of any aboriginal inhabitant, it be the duty of the constabulary force to communicate the facts immediately to the aboriginal agent or board.

On death or injury facts to be communicated to board.

#### *Apprenticeship and Service.*

That no colonist shall have the power of taking any of the aborigines as apprentices, or under agreement for service, without an agreement in writing, fully explained to the proposed apprentice or servant, and exhibited, registered, and approved of by the protector of the aborigines or his agent.

No colonist to take native as servant or apprentice without registering agreement.

That in case of any cruelty or ill usage by the master towards such apprentice or servant, it be the duty of the nearest magistrate or head of the constabulary force to take cognizance of the same, and to forward to the agent or board of protection for aborigines a statement of the same, who shall institute such inquiry and

In case of ill-usage, proceedings to be instituted by agent or board of protection.

proceedings as may be necessary to further the ends of justice.

Premium to colonists to settle aborigines on land, or take them as apprentices or servants.

That with the view of making it the interest of the colonists to promote the advancement and civilization of the aborigines, as well as to provide native labour for our colonies, a premium be held out to the colonists for employing, teaching, and settling the aborigines, and that a certain sum, to be derived from the fund arising from the sale of crown lands, shall be applied for that purpose in the following manner, viz. —for every aboriginal inhabitant who, by the assistance or means of a colonist, shall have become settled for three years on land as an agriculturist, or as a mechanic or handicraftsman, or shall have been taken and kept by a colonist as a farm servant or labourer for the same period, a sum not exceeding the amount of *6l.* shall be paid and divided under the direction of the aborigines board of protection, in the proportion of two-thirds to such colonist and one-third to such native.

One-third of premium to aborigines, two-thirds to colonists.

#### *Protection of Life.*

That in all cases of the death, of one of the aborigines under any suspicious circumstances, it be the duty of the officer of the constabulary force to report the same, with all the circumstances, to the chief agent and board; and such chief agent, by himself, or the medical agent, or some person deputed by one of them, shall have the power of inquiring into the cause of such death as coroner. And that a mixed jury of half colonists and half aborigines may be impannelled for that purpose; and that their verdict shall be judicially taken cognizance of by the executive government.

Coroner to be appointed, or one of the board to sit.

Mixed jury.

As well as all cases of aggression by hostile powers or tribes.

That in all cases of aggression by a hostile, foreign, or independent tribe or nation, immediate information

be also sent by the constabulary force, with all the circumstances, showing the nature, and if possible, the cause of aggression, to the executive government, as well as to the board for protection of aborigines, who shall be called in to advise with the governor and council as to the best course to be adopted.

#### *Personal Rights and Privileges.*

That they shall possess all the privileges of British subjects, and be taxed and treated by law as such.

That all aborigines living or electing to come under the sovereignty of Great Britain, shall have the right of inheriting and holding real and personal property, and of disposing of the same by will or transfer, subject to the regulations as to real property hereinafter mentioned.

To enjoy the privileges of British subjects. Aborigines to inherit real and personal estate.

#### *Commercial Privileges.*

That the aboriginal inhabitants of our colonies shall have the right to be registered as British seamen.

That they shall also have the right of being registered as owners of vessels, being British bottoms, or built in British colonies.

To be registered as British seamen. As owners of vessels.

That the duty in reference to vessels owned or navigated by the aborigines shall be the same as that paid by any other British subject.

Equalizing duty on vessels owned by aborigines.

#### ADMINISTRATION OF JUSTICE.

#### *Evidence.*

That in all cases, civil as well as criminal, the evidence of the aborigines shall be admitted in British courts of justice.

Evidence of Aborigines to be received.

With or without  
oath.

That such evidence shall not be invalidated by reason of their customs preventing them from taking an oath, but that the evidence taken in the manner sanctioned by their own customs shall be admissible.

### *Jury.*

Jury. Mixed  
jury.

That the aborigines shall not only be entitled to trial by jury in all civil and criminal cases, but shall be also entitled to demand a mixed jury of half colonists and half native aborigines.

### *Arbitration.*

Arbitration  
recognized.

That in all cases of difference between the colonists and the aborigines, or among themselves, the matter in dispute may, with the consent of the parties, be referrible to the arbitration of either aborigines or colonists, or of both, as may be agreed upon; and the same shall be recognized by courts of law.

### *Legal Protection Board.*

Board may  
represent in-  
terests of  
Aborigines.

That the chief agent of the board of protection of aborigines shall have the power of appearing *ex officio* in person, or by deputy, in all courts, as legal protector of their rights and interests.

### *Appeal.*

Appeal to  
privy  
council.

That in all cases the right of appeal shall lie, as with the colonists, to the privy council.

Commission-  
ers may re-  
present abo-  
rigines.

That in such cases as the commissioners may consider require their especial protection, they shall have the power of representing the aborigines before the privy council.

## INSTRUCTION AND AMELIORATION.

### *Moral, Religious, and Intellectual.*

That native schools and native teachers be provided, under the superintendence of the instructional agent.

Native  
schools.

That every facility shall be given for moral and religious instruction, including useful knowledge in the arts and sciences.

Moral, reli-  
gious, and  
useful in-  
struction.

That engineering, and mechanics, as well as metallurgy, mining, and particularly navigation, shall be taught to well selected natives.

Engineering  
and mecha-  
nics.

### *Physical.*

That manual labour schools be provided, upon the self-supporting principle. That such schools shall embrace instruction in agriculture and farming, the breeding and care of animals, the culture of the staple produce of the country, the various useful mechanical arts and handicraft occupations, including the manufacture of simple implements of husbandry, clothing, the construction of farms, and other useful buildings.

Manual la-  
bour schools.

Agriculture  
and handi-  
craft.

That in those parts of our colonies where it is practicable, and when civilization is sufficiently advanced, selected aborigines shall be instructed in ship-building and naval architecture, including ironfounding and marine engineering.

Shipbuilding.  
Iron-founding  
&c.

### *Home Education and Native Teachers.*

That with a view to attach the aborigines to the manners, customs, and institutions of Great Britain, a certain number of youths be selected from the aborigines of each colony and sent to England, to be educated under the direction of the aborigines commis-

Youths to be  
sent to Eng-  
land for  
education.

sioners in such of the useful arts and sciences, and in such knowledge as may best conduce, on their return to their native country, to the improvement and civilization of their brethren.

*Preservation of Health and Medical Aid.*

Medical inspectors to be appointed.

That under the superintendence of the medical agent, medical inspectors be appointed, or missionaries having medical knowledge, to reside among the aborigines, for the purpose of modifying or eradicating native diseases, or preventing, if possible, contagion from Europeans.

To report to board cases of disease, &c.

That the medical agents from time to time report to the board, or principal agent, the state of their several districts, —the prevalence of particular diseases, or the prevailing endemics, the mortality, and other vital statistical facts.

And to report on climate, productions, &c.

That the medical agent shall also direct his mind to inquiries connected with the nature or variation of the climate, and the animal, vegetable, and mineral productions of the country, with a view to their development or improvement, and report thereon specially to the commissioners.

II. COUNTRIES NOT UNDER THE SOVEREIGNTY OF GREAT BRITAIN.

Moral and political influence necessary.

In order permanently to benefit and promote the civilization of the aborigines, it is necessary to obtain, by peaceful means, as soon as possible, moral and political influence over them.

Political and commercial treaties.

That with this view treaties for commercial and other purposes shall be made between the British government, and those nations of aborigines who may

maintain their independence in the neighbourhood of British colonies, with the view of protecting the natives, as well as British traders, and of effecting amicable relations between them.

As a temporary measure, it is suggested, that in those countries where the aborigines are sufficiently numerous, a consular agent shall be appointed, with power to take cognizance of all criminal acts committed by British subjects against the native inhabitants—that he shall have the power of impanelling a jury consisting of any sufficient body of British residents for that purpose (and when not sufficient British residents, that a summary jurisdiction shall be vested in him), with power to arrest and send persons for trial on oral or written depositions (where obtainable), to the nearest British colony. And that by naval stations being multiplied, and by periodical visits of ships of war, he may be fully supported in his duty.

Consular agents to be appointed.

Council or jury of British residents.

That such consular agent shall watch over and protect, as far as possible, the aborigines from foreign aggression by representations to the home government—shall inquire into the manners and customs of the natives, conciliate their goodwill by judicious and useful presents—endeavour to act as mediator and pacificator in all matters of difference between them and British trading parties, so as to extend the friendly relations of Great Britain with the native inhabitants.

Duty of consular agent.

That every information connected with treaties or wars among themselves, or with other civilized or uncivilized nations, shall also be obtained and transmitted to the home government.

Returns of wars or treaties.

That in future, no nation or tribe of the aborigines, on any pretence whatever, shall in any case be excited or encouraged to go to war with a neighbouring tribe

or nation, or commit any act of aggression whatever; but on the contrary, the British agent shall exert himself to procure an extensive, organized, and pacific coalition of the several tribes under British influence and mediation.

Neighbouring tribes to be protected.

That all aborigines belonging to nations or tribes adjacent to British colonies, if they elect to settle in such colonies, shall, although the sovereignty of their country be not vested in Great Britain, be as far as possible protected and treated as subjects of Great Britain.

Aborigines during their stay in British colonies to be protected.

That all such aborigines as enter any such colony, settlement, or factory, for the purpose of trading with British subjects, shall, pending their stay, be protected by the consular authority as British subjects.

#### *Means for raising Aborigines Fund.*

Five per cent on sale of crown lands.

That five per cent of the sum derived from the sale of crown lands in British colonies, where there are aboriginal inhabitants, shall be reserved for the creation of a fund for maintaining the expense of settling, locating, educating, apprenticing, and otherwise protecting and ameliorating the condition of the aborigines under the direction of the commissioners.

Penalties incurred to go in aid of fund.

That all penalties incurred, land forfeited, or sums paid, at home or abroad, in consequence of the infringement of these laws shall go in aid of such fund.

Grant of Crown land.

That in further aid, a certain amount of land in British colonies be at once set apart for the special purposes of the fund.

#### 5. APPOINTMENT OF A BOARD OF PROTECTION FOR ABORIGINES

Appointment of general board of protection.

That upon the report and information being received from the commissioners of enquiry the Govern-

ment shall proceed to appoint a commission consisting of an agent-general or commissioner with two assistant commissioners, whose duty shall be to protect the interests of the aborigines of our colonies, to watch all legal or political proceedings affecting them, to communicate with all the colonies, to suggest new matter for colonial legislation, to prepare and send out instructions to the branch boards in each colony, to superintend the instruction of native youths sent for improvement to this country, and to maintain a correspondence on all matters which may tend to protect the rights, advance the condition, or promote the civilization of the aborigines generally,

#### LOCAL BOARD OF PROTECTION.

It is submitted, that upon the establishment of every new colony, a Protector of Aborigines shall be at once appointed, who shall receive his instructions from this board; that as soon as the population of the new colony, and the connexion and communication between the aborigines and the colonists require it, two more commissioners shall be added, who shall form a complete colonial board for the protection and administration of the affairs of the aborigines in the colony; while as the duties increased, there might be vested in the colonial board, the power of appointing an assistant or assistants, in any of the three departments.

Local protectors to be appointed.

Two assistant agents.

Further assistants.

The board would consist of—1st. The chief agent and protector, who would take cognizance of the civil and political rights of the aborigines; 2dly. The medical agent, whose duty would be to watch the physical health of the aborigines, to endeavour to mitigate or modify the effects of European

Duties of local board.

diseases, and generally to observe and report upon all matters connected with the physiological character of the people, or the physical character of the soil, its climate, productions, &c.; 3dly. The educational agent, whose duty it would be, with the aid of missionaries or the clergy, to superintend and promote the moral and religious training of the children, the establishment of normal schools for agricultural and mechanical instruction, and to promote the apprenticing the children of the natives to colonists under proper restrictions, to be laid down by the board. It shall be an object to introduce well selected and instructed natives into office in the local board, in order that the distinction and separation between aborigines and colonists may be ultimately done away with.

The proposed system would embrace the protection and amelioration of aborigines,

#### I. PROTECTION.

Would be either

1. Political, or, 2. Civil.

1. Political: comprehending—

1. International rights. The right of independence of every sovereign people.
2. An admission to the rights of the laws of nations.
3. Protection by treaties.

2. Civil rights:

1. Rights of personal liberty, and protection to life and property.
2. Right of property, territorial rights.
3. Special laws for protection of aborigines.

#### II. INSTRUCTION AND AMELIORATION.

1. Moral:

1. Moral, religious, and useful instruction by missionaries, schools, teachers, and interpreters.

2. Physical:

1. Schools for agricultural instruction.
2. Schools for mechanical instruction.
3. Medical missionaries or agents, for the purpose of modifying or eradicating disease.

In addition to which, by collecting statistical data in reference to the moral, physical, and political condition of each race of aborigines, such facts might be established as to render the system of the greatest utility to the Government at home; —so that with the aid of legislation from time to time, the aboriginal inhabitants might be made to hail colonization as a blessing, and not a curse, —as the harbinger of knowledge, power, wealth, and happiness, and not as the forerunner of disease, misery, oppression, and death; while we should have the pleasing satisfaction of knowing we were not only spreading civilization, religion, and the arts, but extending the dominion, the commerce, and, above all, the moral power of our country.

It is submitted that the Colonial Minister, with the consent of the Treasury, has ample power to create a subordinate department attached to the colonial office to carry out these views; or, if thought proper, an address might be moved to her Majesty, for the appointment of a commission.

## APPENDIX.

## EVIDENCE OF NECESSITY OF LEGISLATION.

THE obligation and duty of the British Government to afford protection to the Aborigines, as well as the justice of providing a reserve from lands purchased of them as a compensation and means of existence, have been frequently brought before parliament, and discussed, but unfortunately with no practical result. In the words of the parliamentary report on the condition of the Aborigines, 1837 —

" When acts of parliament have laid down general principles of equity, other conflicting acts have been framed disposing of lands without any reference to the possessors and actual occupants, and without making any reserve of the proceeds of the property of the natives for their benefit. . . . It is not too much to say, that the intercourse of Europeans in general, without any exception in favour of the subjects of Great Britain, has been, unless when attended by missionary exertions, a source of many calamities to uncivilized nations.

"Too often their territory has been usurped, their property seized, their numbers diminished., their character debased, the spread of civilization impeded. European vices and diseases have been introduced amongst them; and they have been familiarized with the use of our most potent instruments for the subtle or the violent destruction of human life, viz., brandy and gunpowder.

"It might be presumed that the native inhabitants of any land have an incontrovertible right to their own soil: a plain and sacred right, however, which seems not to have been understood. Europeans have entered their borders uninvited, and when there have not only acted as if they were undoubted lords of the soil, but have punished the natives as aggressors if they have evinced any disposition to live in their own country. If they have been found upon their own property, they have been treated as thieves and robbers.

They are driven back into the interior, as if they were dogs or kangaroos.

"From very large tracts we have, it appears, succeeded in eradicating them; and though from some parts their ejection has not been so apparently violent as from others, it has been equally complete, through our taking possession of their hunting grounds, whereby we have despoiled them of the means of existence."

A review of the progress of civilization, as it is called, and its effect upon the native inhabitants of our colonies, presents a melancholy history.

In North America we perceive the utter destruction and extinction of many tribes, the depopulation of others. It is supposed in round numbers that the numerous tribes, many of which practised agriculture when the early settlers first colonized North America, and then amounting to probably one million and a half of people, are now reduced to less than 200,000.

In Newfoundland, where, when first settled, the Indian race was formerly very numerous, having according to the report at one time "run up frames for thirty miles to secure their game," were reduced, in 1810, to about 400 or 500, and they are now totally extinct.

Of the Carib nations, the native inhabitants of the West Indies, there remains only the tradition of their existence.

In New Holland many of the tribes are extinct; in some cases two or three are occasionally seen begging in the streets of Sydney, the remnant of tribes consisting of several hundreds. The native population within the limits of New South Wales, notwithstanding the ravage of European diseases, is still estimated by Dr. Lang at 10,000. In 1825, instructions were issued to the governor to protect the natives in the enjoyment of their possessions and against violence or injustice; an allowance was also made in their behalf by the Church Missionary Society; since that period five persons have been appointed as Protectors, but unless clothed with sufficient authority, and unless *the system* be also changed, there is every reason to fear they will be of little utility.

Although an act was passed in 1834, disposing of a large tract of territory in Australia, which even now is partially populated by the Aborigines (without once referring to their rights

North  
America.Newfound-  
land.

West Indies.

New  
Holland.

Protectors.

or interests, or making any provision for them); yet the Commissioners have had the candour to acknowledge it as "a melancholy fact, which admits of no dispute, and which cannot be too deeply deplored, that the native tribes of Australia have hitherto been exposed to injustice and cruelty in their intercourse with Europeans."

Van Die-  
mens Land.

The history of the Aborigines of Van Diemens Land, like the rest, is a history of bloodshed, cruelty, and oppression, until the last remains of the race becoming infuriated by the conduct of the colonists, it became absolutely necessary to remove them from the island, and the governor in 1834, writes home, "The whole of the Aboriginal inhabitants of Van Diemens Land (excepting four persons) are now domiciliated, with *their own consent*, on Flinders Island."

Now Zealand  
and Islands  
of Pacific.

The islands of the Pacific, including New Zealand, present if possible features of greater aggravation and crime; the native inhabitants, by the most recent accounts, appear to be a people capable of adopting civilized habits and customs more rapidly than perhaps any other Aboriginal race;—living in a climate and upon a soil unsurpassed for salubrity and fertility, it would seem as if the choicest spot of nature had been selected as the scene of the greatest crimes and cruelties humanity can be guilty of—the runaway convict, the whalers' crews, the grogshop-keepers, the adventurers upon these islands have brought about evils that nothing but time and its attendant discipline can cure. From a population supposed to extend to nearly a million of inhabitants in New Zealand, the tribes have been fast decreasing, and 200,000 is supposed to be the remnant of the population left by European rapine, cupidity, and disease. The facts given in evidence in relation to New Holland and New Zealand, are alone sufficient to affix an indelible stain upon the character of any nation. Lord Goderich, in his despatch to Major-General Bourke, January 31, 1832, thus feelingly and indignantly approaches the subject.

Extract from  
despatch of  
Lord Gode-  
rich to Major-  
General  
Bourke.

"It is impossible to read without shame and indignation, the details which these documents disclose. The unfortunate natives of New Zealand, unless some decisive measures of protection be adopted, will I fear, be shortly added to the number of those bar-

barous tribes who, in different parts of the globe, have fallen a sacrifice to their intercourse with civilized men, who hear and disgrace the name of Christians. When for mercenary purposes the natives of Europe minister to the passions by which these savages are inflamed against each other, and introduce them to the knowledge of depraved acts and licentious gratifications of the most debased inhabitants of our great cities, the inevitable consequence is a rapid decline of the population, preceded by every variety of suffering. Considering what is the character of a large part of the population of New South Wales and Van Diemens Land, what opportunities of settling themselves in New Zealand are afforded them by the extensive intercourse which has recently been established, adverting also to the conduct which has been pursued in those islands by the masters and crews of British vessels, and finding from the letter of the Rev. Mr. Williams, that the work of depopulation is already proceeding fast, I cannot contemplate the too probable results without the deepest anxiety. There can be no more sacred duty than that of using every possible method to rescue the natives of those extensive islands from the further evils which impend over them, and to deliver our own country from the disgrace and crime of having either occasioned or tolerated such enormities."

With reference to South Africa, the population of the Hot-  
tentot nation, formerly supposed to have exceeded 200,000, is  
South Africa.  
now reduced to 32,000. The colony, which in the beginning of the last century was confined to within a few miles of Cape Town, now comprises a larger district than Great Britain, formerly thickly peopled by the Aboriginal inhabitants; and at the time of the early Dutch settlement in 1652, filled with natives and cattle, is now comparatively waste. In the words of an extract given in the report, "Any traveller who may have visited the interior of this colony little more than twenty years ago, may now stand on the heights of Albany, or in the midst of a district of 42,000 square miles on the north side of Graaff Reinet, and ask the question, Where are the Aboriginal inhabitants of this country which I saw here in my former visit? without any one being able to inform him where he is to look for them."



The differences between the Bushmen, the Caffres, and the Boors, the bloodshed that has ensued, the cruelty, oppression, and tyranny exercised over the Hottentots, the original inhabitants, are all recorded, and hitherto the principle acted upon has been the attempt gradually to annihilate the native race, —in the words of the deputy Lieutenant-Governor, Capt. Stockenstrom, \*

"The white colonists having from the first commencement of the Settlement gradually encroached on the territory of the natives, whose ejection (as is too well known) was accompanied with great injustice, cruelty, and bloodshed; the most hostile feelings were entertained by the weaker party towards those whom they considered as their oppressors. The Aborigines, † who did not become domesticated (as it was called), like the Hottentots, seeing no chance of retaining or recovering their country, withdrew into the interior, as the whites advanced; and being driven to depredations by the diminution of the game, which constituted their principal means of subsistence, and which gradually disappeared when more constantly hunted; and as the land became permanently occupied by the new comers, they often made desperate attacks on the latter, and in their turn were guilty of great atrocities."

Despatch of  
Lieutenant-  
Governor  
Stocken-  
strom.

Further details, too horrifying to recapitulate, will be found recorded in the evidence given before the parliamentary committees on the Aborigines of British Settlements.

\* Recently created a baronet for his distinguished zeal and services at the Cape, to which he has lately returned from this country.

† Caffres, or Bushmen, or Bosjesmen.